

2013

## False Promises: The Failure of Secure Communities in Miami-Dade County

Alex Stepick

*Portland State University, [stepick@pdx.edu](mailto:stepick@pdx.edu)*

Steve Held

*Florida International University*

Cynthia S. Hernandez

*Florida International University*

Cheryl Little

*Florida International University*

Susana Barciela

*Americans for Immigrant Justice*

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### Citation Details

False Promises: The Failure of Secure Communities in Miami-Dade County with Steve Held, Cynthia S. Hernandez, Cheryl Little and Susana Barciela. Research Institute on Social and Economic Policy, Center for Labor Research & Studies, Florida International University and Americans for Immigrant Justice, Miami, Florida and Washington, D.C. April 2013.

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# **False Promises: The Failure of Secure Communities in Miami-Dade County**



Research Institute on Social & Economic Policy  
Center for Labor Research & Studies  
Florida International University  
Miami, Florida

Americans for Immigrant Justice  
Miami, Florida and Washington, D.C.

April 2013

*Alex Stepick  
Steve Held  
Cynthia S Hernandez  
Cheryl Little  
Susana Barciela*

# Acknowledgment

The Research Institute on Social & Economic Policy Center for Labor Research & Studies at Florida International University and Americans for Immigrant Justice are extremely grateful to the Sociological Initiatives Foundation for their support. Without their funding, this report would not have been possible.

*"I have never been arrested before in this country, nor in my own. I have no previous arrest record because I have never done anything wrong. I have been in this country for 11 years. Both of my children were born in this country and are U.S. citizens. I have businesses here that have been providing jobs that support families. I have even been paying taxes! I was not even driving improperly."*

Chel, a Mexican arrested and detained for driving without a license

*"There is an all-out war against immigrants in this country that is hurting economies."*

Tomas Regalado, Mayor, City of Miami



Photo Credit: [salon.com](http://salon.com)



Photo Credit: ICE Photograph

Alberto was arrested for driving without a license and transferred to Krome Detention Center where he was not allowed to contact his wife to inform her of where he was or what had happened to him. His wife, Marta, said:

*"This is the hardest thing that my family has gone through. I don't wish this experience on anyone, not even my worst enemy. I can't sleep at night. My children can't sleep at night. My children who went from straight A students are now failing their classes because they can't focus. My youngest son has a hard time eating and is going through such severe depression that I've had to put him under psychiatric care."*

Marta and Alberto are homeowners in Miami-Dade County. They have four children, two of whom were born in the U.S.

Ana Sofia is single mother whose daughter has a heart defect. She was arrested for a misdemeanor. Her husband paid her bond, but when she was released from jail, Immigration and Customs Enforcement (ICE) re-arrested her and placed her in the Broward Transitional Center, a privately-run jail that ICE uses for immigration cases. Ana Sofia says no one told her that immigration would detain her upon release for a misdemeanor and that no one told her of any of her rights while she was in detention. She was ready to accept voluntary departure until she learned that her daughter would not be able to fly with her to Mexico. She concluded, *"As the parents in the family we never wanted to be separated from any of our children or our family in Mexico, but the lack of economic opportunities that exist in our country gave us no choice. Neither of us wants to return to Mexico where it has become more dangerous to live, now more than ever, but what choice do we have now?"*

Being an immigrant, I know that all people need is a fair chance to get the American dream.

Police Chief, Manuel Orosa  
City of Miami

*"Where is the list of priorities? Does the U.S. government have nothing better to do than put people in the nightmare situations kids find themselves in [when their parents are deported]?"*

*Albert Carvalho, Superintendent,  
Miami-Dade County Public Schools*



Photo Credit: Wikipedia

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## ***Executive Summary***

This report<sup>1</sup> addresses the impact on Miami-Dade County of the Secure Communities program, currently one of the primary federal immigration enforcement programs administered by the Department of Homeland Security (DHS) through Immigration and Customs Enforcement (ICE). DHS claims that the program prioritizes the removal of convicted criminal aliens who pose a danger to national security or public safety, repeat violators who game the immigration system, those who fail to appear at immigration hearings, and fugitives who have already been ordered removed by an immigration judge.”<sup>2</sup>

Contrary to these policy goals, we found that 61% of individuals ordered for removal<sup>3</sup> from Miami-Dade County are either low level offenders or not guilty of the crime for which they were arrested.<sup>4</sup> By ICE’s standards only 18% of the individuals ordered for removal represent high priority public safety risks,<sup>5</sup> and that number drops to a mere 6% when we apply local standards suggested by Miami-Dade County’s Public Defender. Interviews with detainees also reveal that often residents are stopped by police for no apparent reason and subjected to detention and deportation. Secure Communities in Miami-Dade County also has a disproportionately negative impact on Mexicans and Central Americans who constitute a relatively low percentage of the local population but a high percentage of those whom Secure Communities detained and removed.

For this report, the Research Institute on Social and Economic Policy (RISEP) of the Center for Labor Research and Studies at Florida International University analyzed twelve months of arrest records,<sup>6</sup> and the detentions and subsequent dispositions of all 1,790 individuals<sup>7</sup> held in Miami-Dade County Corrections’ jails for the Secure Communities program.<sup>8</sup> RISEP complemented this analysis with interviews of individual Miami-Dade County residents who were directly affected by Secure Communities and interviews with local government officials in the City of Miami and Miami-Dade County. We also conducted a thorough analysis of DHS and ICE documents that guide Secure Communities.

Our analysis of these documents demonstrates that the program is based on internally ambiguous priorities and directives that result in contradictory guidelines. Accordingly, Secure Communities has become a program that in essence removes virtually all undocumented migrants who are identified through Secure Communities, in spite of DHS Secretary Napolitano calling for ICE to use prosecutorial discretion.<sup>9</sup> The program's guidelines bear the signs of a centrally devised policy created without consideration for the complex criminal justice landscapes of the thousands of jurisdictions where the program is implemented.

The implications and effects of enforcing Secure Communities are far reaching. It disrupts and tears apart honest and hardworking families and makes Miami-Dade **less** secure for everyone as it discourages immigrants from cooperating with law enforcement. ICE's detention and deportation of immigrants for minor crimes, ordinary misdemeanors, and non-offense incidents reduces trust of law enforcement. This is especially dangerous in Miami-Dade County where the majority of the population is immigrants and approximately three-fourths are either immigrants themselves or children of immigrants. Miami's Mayor and Police Chief both expressed their belief that the reduced trust that Secure Communities produces will make protecting all communities more difficult—the opposite of what DHS and ICE claim is their goal. When community trust in law enforcement decreases, residents are less likely to report crimes and cooperate with police in the investigation of crimes. When serious crimes do occur, the reduced trust engendered by ICE's Secure Communities program makes it more difficult for local law enforcement to do its job, undermining the security of all county residents.

We strongly recommend that Miami-Dade leaders form a broad-based task force to review the impact of Secure Communities. We urge Miami-Dade County residents, elected officials, law enforcement leadership, and representatives of the criminal justice system to carefully and conscientiously evaluate and determine which aspects of this federal program are in the best interests of Miami-Dade County and adjust their cooperation accordingly. The task force should be charged with carefully defining those aspects of Secure



Communities that, in fact, help protect public safety and the parts of the program that contradict local law and enforcement policy. This evaluation should include a meticulous cost analysis. Without this knowledge, Secure Communities has the potential for creating long-term damage and problems that will persist long after reform of the country's current federal immigration law. We suggest that Miami-Dade County and its municipalities follow the lead of numerous other state and local governments and not honor ICE detainer requests unless an immigrant has been convicted of a serious crime.<sup>10</sup>

## ***The Secure Communities Program***

The Department of Homeland Security's (DHS) Secure Communities program is designed to identify immigrants in U.S. jails who are deportable under immigration law. Under Secure Communities, participating jails submit arrested individuals' fingerprints not only to the Federal Bureau of Investigation (FBI), but also to Immigration and Customs Enforcement (ICE), allowing ICE access to information on individuals



Photo Credit: The Magazine.com

held in local jails.<sup>11</sup> After receiving and reviewing an arrested individual's information, ICE then can send a "detainer request" asking local authorities to hold the person for up to 48 hours (plus weekends and holidays) beyond the period the individual would otherwise have been released from criminal custody. This additional detention is at the County's expense.<sup>12</sup> During that 48 hour period ICE may take custody of the individual.

### **The Cost of Secure Communities**

*Our data reveals that Secure Communities implementation in Miami-Dade County resulted in a total of 4,635 aggregate days of detention and approximately \$635,000 in costs for detentions. This is not an exhaustive analysis of cost, which could include costs for medical attention among others, but rather the most basic and conservative calculation based on the figure of \$137.11 for the per day cost of housing an individual in Miami-Dade Corrections and Rehabilitation facilities. More exhaustive analyses of the costs associated with Secure Communities implementation in other jurisdictions have been undertaken elsewhere. It should be noted, however, that Miami-Dade Corrections and Rehabilitation has requested, but not received, reimbursement of \$1.1 million from ICE for costs incurred through Secure Communities enforcement from 2009 through 2011.*

DHS claims that the program prioritizes the removal of convicted criminal aliens who pose a danger to national security or public safety, repeat violators who game the immigration system, those who fail to appear at immigration hearings, and fugitives who have already been ordered removed by an immigration judge.”<sup>13</sup>

Implicitly the program recognizes that not all individuals who fall into the Secure Communities net pose a danger to national security or public safety. To achieve the goal of identifying and removing dangerous criminal aliens from communities across the United States, ICE established a 3-level scheme to prioritize offenses and to guide enforcement. Level-1 represents the highest priority offenders, mostly violent criminals, while Level-3 represents the lowest level, mostly misdemeanor offenders. Though Secure Communities’ policy guidelines appear less than fully developed and not well adapted to individual state statutes, for purposes of this report we evaluate our data as accurately and faithfully as possible in alignment with the program’s goals. The ambiguities in the program guidelines, which we analyze later in this report, are critical to the viability of local compliance with the program as well as evaluating and holding it accountable to its stated goal.

This study asks if the implementation of Secure Communities in Miami-Dade County is achieving its stated policy goal<sup>14</sup> to prioritize the removal of convicted immigrants who pose a danger to national security and public safety. In our analysis, we identify what level of charge, if any, the individuals in our population were convicted of and which of ICE’s priority levels they qualified under. Many were found not guilty of any crime and we coded these as not guilty. For those who were found guilty, we categorized individuals with multiple convictions or charges according to the highest priority crime, following ICE’s

**In Miami-Dade County  
Secure Communities  
Does Not Focus on  
Serious Criminals**

*-Only 18% were convicted  
of the highest ICE Priority  
Level-1 crimes*

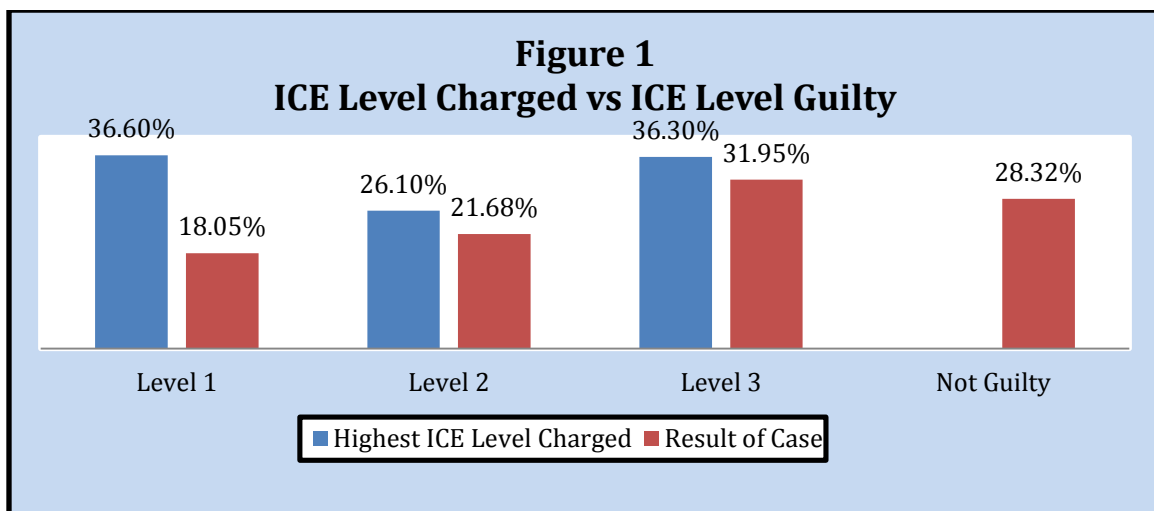
*-60% were convicted of  
the lowest ICE Priority  
crime, or found not guilty  
of any crime*

*-Nevertheless, 87% were  
ordered deported*

stated goal to remove aliens convicted, not merely charged with a crime. Then we identify the final orders resulting from immigration detention, i.e. was the person ordered for removal or was the removal process dropped or suspended. Of the 1,790 individuals detained by ICE in Miami-Dade County, we found information on the final immigration disposition of 955 individuals.

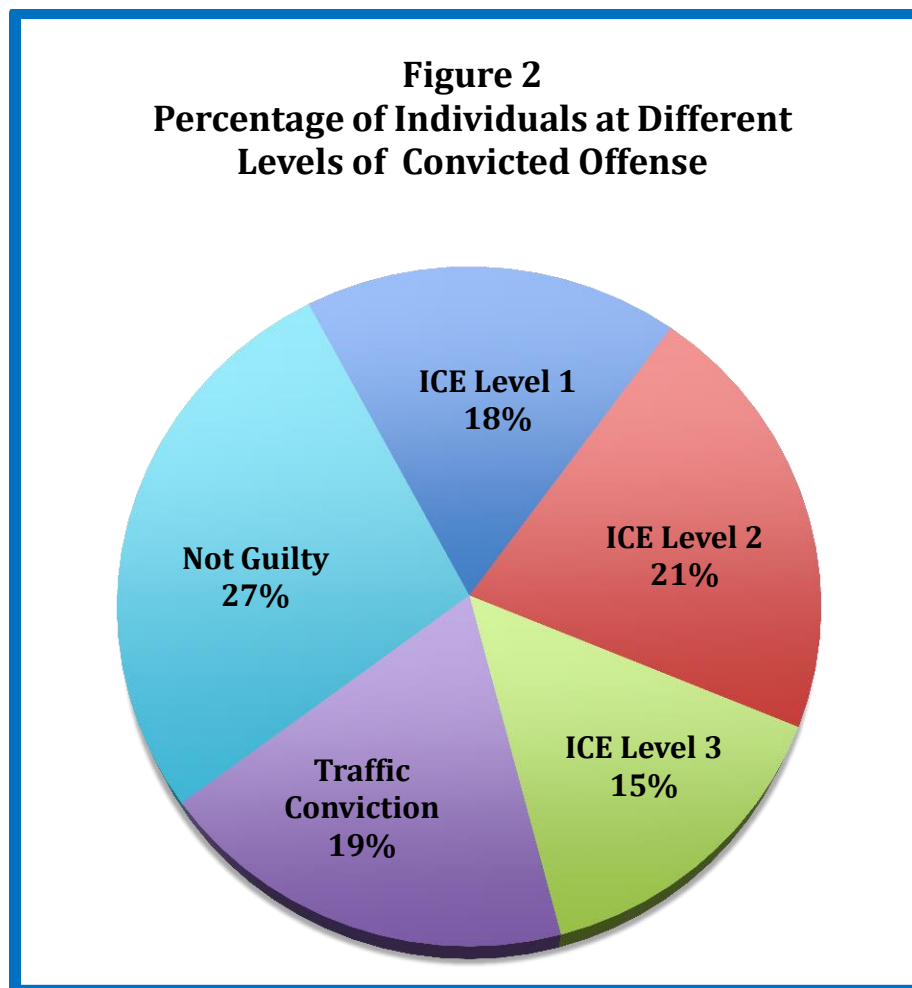
### How Many Detainees are Dangerous Criminal Aliens?

Our analysis of Secure Communities outcomes shows that, at most, only 18% of the individuals targeted by the program in the year under study represent high priority public safety risks, i.e. convicted of Level 1 offenses. We emphasize that our analysis, consistent with ICE's stated priorities, focuses on **convictions, not arrest charges**. As shown in Figure 1, over 36% of cases in Miami-Dade County were charged with Level 1 ICE priority offenses, but only half of these cases were convicted.



28% of all the individuals arrested and detained under Secure Communities were ultimately found not guilty of any crime.<sup>15</sup> **The effectiveness of Secure Communities must be questioned when more than one in four people detained and frequently removed by ICE are not convicted of the crime in question.**

For those issued immigration removal orders (formerly known as deportation orders) the results are similar—the majority of removals are individuals who pose little or no risk to public safety. Figure 2 shows the percentage of individuals convicted of the charges against them who were removed. For 572 cases with both a criminal disposition and a removal order, 18% were convicted of ICE Level 1 priority offenses and 21% were convicted of ICE Level 2 priority offenses. ICE Level 3 priority convictions, i.e. the lowest priority and those who are unlikely to pose a danger to national security or public safety, make up 34% of total removals (19% were traffic violations). Another 27% of total removals are cases found Not Guilty.



Overall, when we combine the Not Guilty cases, traffic convictions, and ICE Level 3 priority convictions, 61% of cases with removal orders were found either not guilty of a crime or committed only a minor misdemeanor offense.<sup>16</sup> These figures fall inexcusably short for a program that “prioritizes the removal of criminal aliens or those who pose a threat to public safety.”<sup>17</sup>

Of the 955 cases for which we were able to find conclusive information about their final immigration status,<sup>18</sup> 78.2% received a removal order or accepted voluntary departure.<sup>19</sup> In Miami-Dade County it appears that the vast majority of those ensnared by Secure Communities are removed, but only a small percentage are categorized as actual dangerous criminals.

#### **Miami-Dade’s Priorities Are Not ICE Priorities**

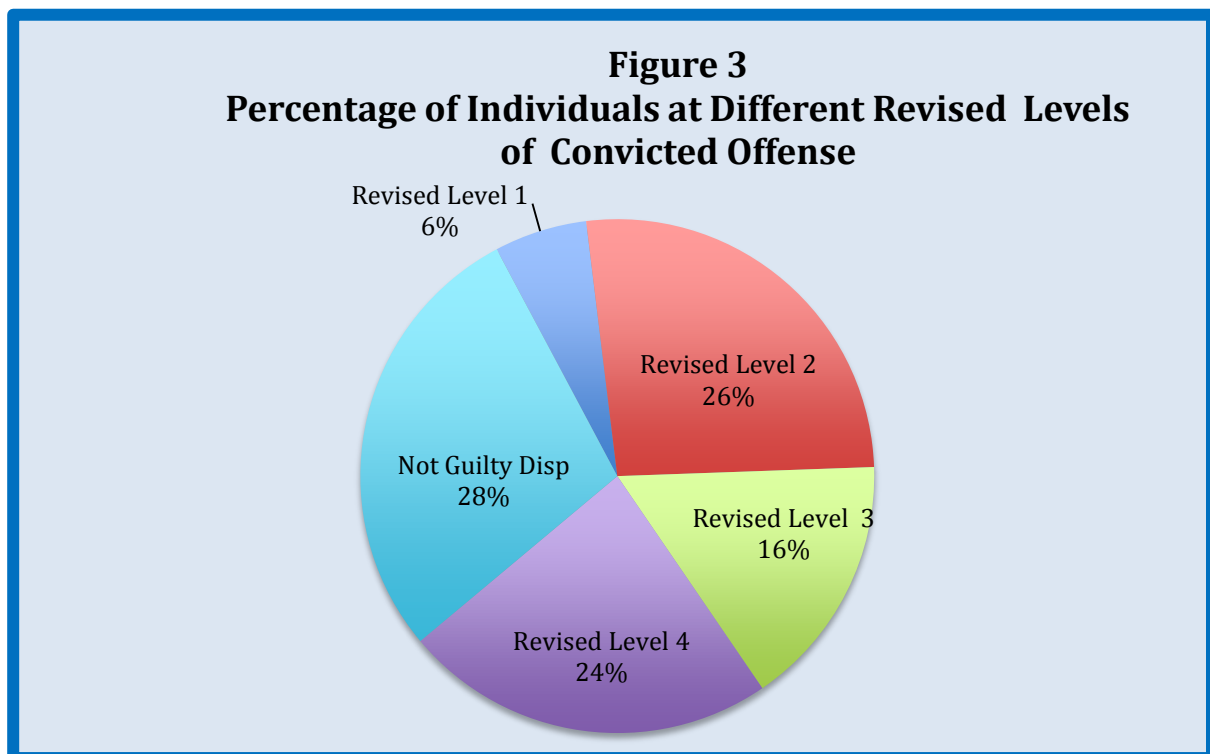
Our research also revealed that ICE’s priority scheme does not align with local enforcement priorities. Miami-Dade County’s Public Defender indicated that under local and state statutes and law enforcement policies many charges are less severe than ICE’s scheme suggests. The Public Defender argued that many of the charges have a lower priority locally. The Public Defender also maintained that ICE’s categories are too broad and often ambiguous with ICE’s highest risk priority containing a range of dangerous felonies, but also relatively unimportant misdemeanors. The Public Defender provided us with an adjusted categorization of crimes according to local Miami-Dade County priorities. We incorporated the Public Defender’s revisions and created a Revised Priority scheme. The revised scheme reflects local law enforcement priorities and adds a fourth category, Level 4 for offenses that by local standards could be considered of even lower risk than ICE’s Level 3. Re-examining the year’s cases using recommendations from the Public Defender for more locally relevant categorizations of charges than handed down by ICE, we found:

We are seeing more arrests for charges we would not normally see... many are dismissed outright. In a recently dismissed case, a guy was charged with trespassing for sitting on a bus bench. For others, though, the justice system wants quick plea deals. Individuals have little time to understand the consequences and impact of their plea, always thinking that they will get out of jail with the plea. That’s not what happens often. ICE is there to pick them up.

Carlos Martinez, Public Defender, Miami-Dade County

- Only 6% of charged individuals were convicted for crimes that fell into Revised Level-1 (compared to 18% in ICE's Level-1).
- 26% were convicted of crimes that fell into Revised Level-2 crimes (compared to 21% in ICE's Level-2).
- Fully two-thirds (67%) were convicted of Revised low-level offenses. Of that 67%:
  - 16% were for Revised Level-3.
  - 23% were for Revised Level-4.
  - 28% remained Not Guilty.

Figure 3 shows the distribution of cases according to revised categorizations of offenses.



Miami Dade County Public Defender Carlos Martinez warns, “In Florida you don’t have the right to an attorney for misdemeanor charges and as a result 70% of cases in MDC don’t get public defenders, which can be a real problem in the case of S-Comm.” As a result, many individuals identified through Secure Communities may not be receiving representation for cases which could have consequences for their immigration status.

City of Miami Mayor, Tomas Regalado, and Police Chief, Manuel Orosa, both argue that Secure Communities makes crime enforcement more difficult. ICE's detention and deportation of immigrants for minor crimes, ordinary

***Anti-immigrant enforcement is counter-productive to community policing.***

Major Jorge Martin,  
City of Miami Police

misdemeanors, and non-offense incidents reduces trust of law enforcement in immigrant communities. Miami's Mayor and Police Chief both feel that the reduced trust that Secure Communities produces will make protecting all communities paradoxically more difficult—the opposite of what DHS and ICE claim. When community trust in law enforcement decreases, residents are less likely to report crimes

and cooperate with police in the investigation of crimes. When serious crimes do occur, the reduced trust engendered by ICE's Secure Communities program makes it more difficult for local law enforcement to do their job, undermining the security of all county residents.<sup>20</sup>

### Disparate Impact

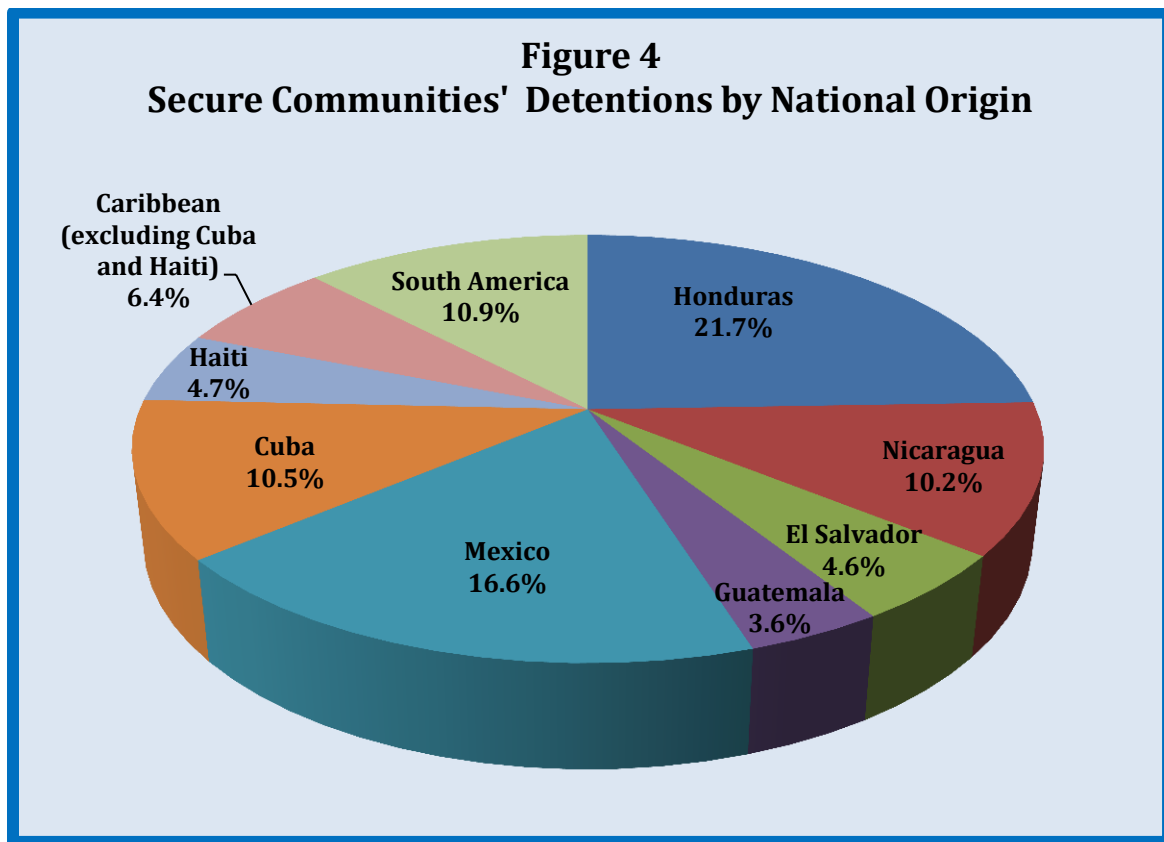
The implementation of the Secure Communities program has produced disparate impacts on some segments of the Miami-Dade County population, particularly on immigrants from Central America and Mexico.

### Detentions

As reflected in Figure 4, of the total individuals detained under Security Communities, 21.7% were Hondurans and 16.6% were Mexicans, more than any other national-origin groups. The detention rate of Hondurans and Mexicans taken together amounted to 38.3% of detainees, more than the total of Cubans (10.5%), Nicaraguans (10.2%) and all South Americans (10.2%). Given that Mexicans are generally considered the largest group in the U.S. without documents, their high percentage may not be surprising. Indeed, it may be surprising that the proportion of Mexicans detained is so relatively low, since it is estimated that Mexicans make up about 60% of the undocumented nationwide.<sup>21</sup> On the other hand, Mexicans constitute a relatively small percentage of Miami-Dade County's population, only 2.6%. There is no obvious reason why the



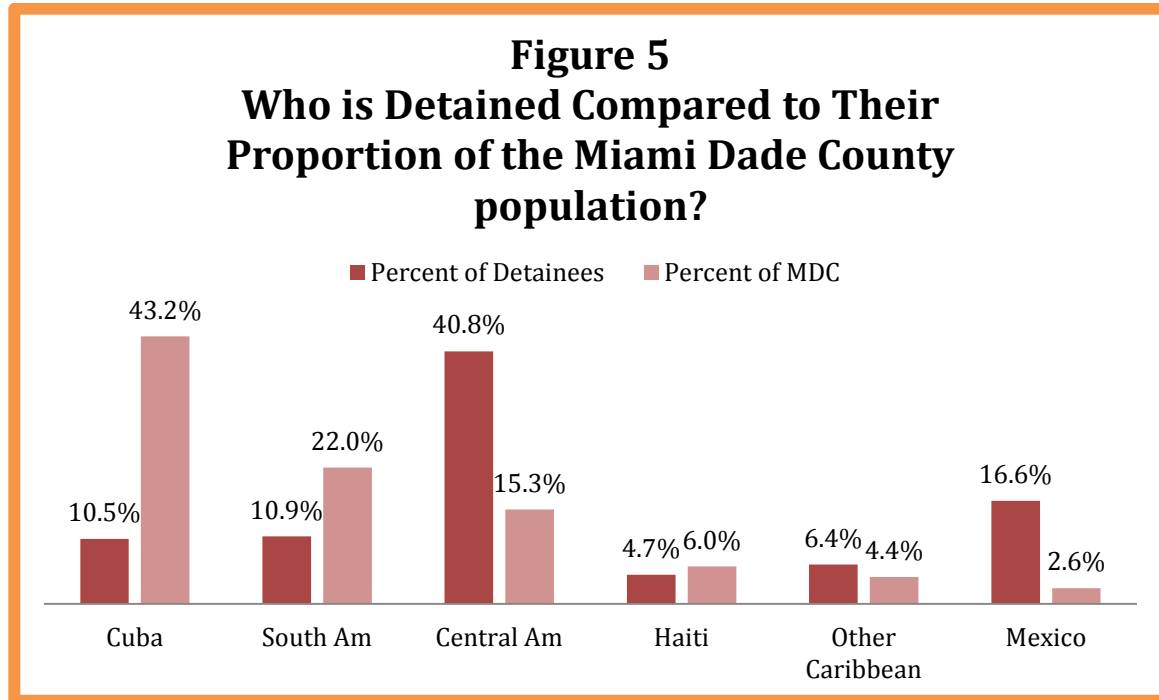
number of Hondurans should be so high. Nationally, they are estimated to be only 5% of the undocumented population.<sup>22</sup>



The number of Cubans detained (10.5%) may be considered surprising because they have always been favorably treated by U.S. immigration law and authorities. They become eligible for lawful permanent resident status after one year and a day in the U.S. and have no criminal record. Virtually all are paroled into the U.S. for that first year or arrive as refugees. Given the ease with which Cubans obtain a legal immigration status, it is likely that those Cubans who were detained by Secure Communities had committed a serious crime.

Disproportionate impact is most clearly seen by comparing a national origin group's detention percentage with its percentage of the overall Miami-Dade County population, which is drawn from the 2010 U.S. Census that does not distinguish documented and undocumented immigrants. Figure 5 compares the percentage of different country and regional groups who were detained under the

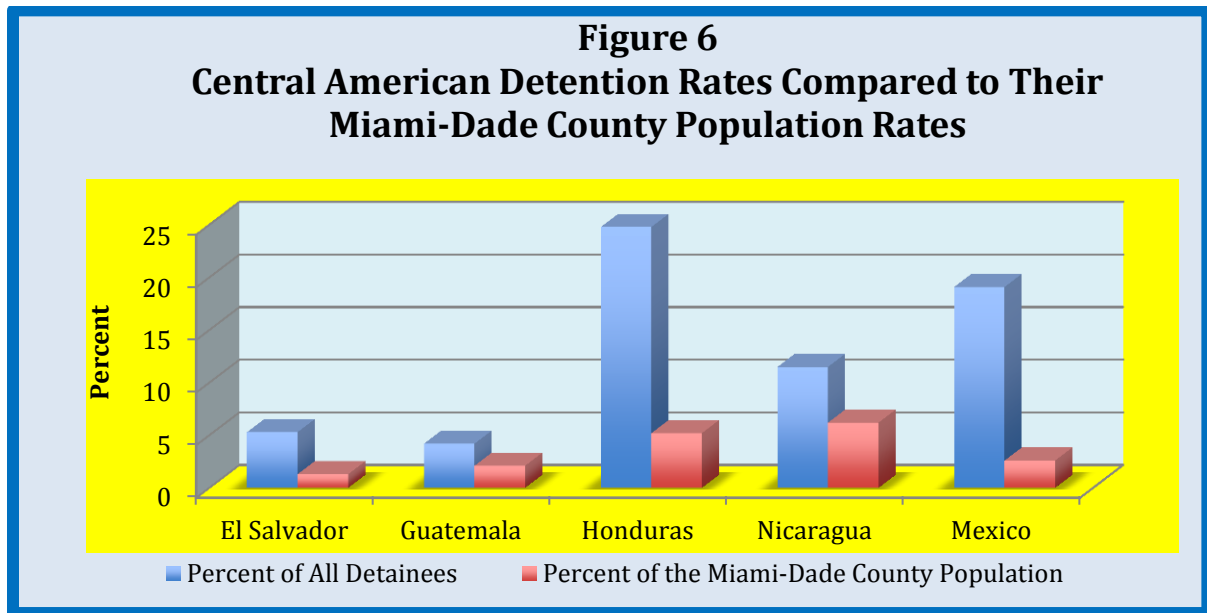
Secure Communities program to their proportion of the Miami-Dade County population.



Cubans and South Americans are greatly under-represented among Secure Communities' detainees relative to their numbers in Miami-Dade County's population. In both cases, their percentage in the overall Miami Dade County population is much higher than it is among Secure Communities' detainees. Cubans are detained under Secure Communities at a rate of only about one-fourth their share of the general Miami-Dade County population, while South Americans are detained at a rate about one-half their share of the general population. Haitians and those from the rest of the Caribbean are detained at rates close to their overall population proportions.

Figure 6 examines Central Americans and Mexicans more closely. Salvadorans, Guatemalans, and Mexicans each constitute less than 5% of Miami-Dade County's population, while Hondurans are barely over 5% and Nicaraguans compose just over 6%. Yet, for every one of these cases, their proportion among Secure Communities' detainees is at least double their proportion in the county population. Amidst this disproportionate impact for Central Americans and Mexicans, Hondurans and Mexicans are by far the most

disproportionately affected by Secure Communities' detentions. Hondurans have the largest percentage of Secure Communities detentions of any national origin group at 21.7% of all detainees. This is approximately five times their percent in the overall Miami-Dade County population. Mexicans are the second most affected nationality as they constitute 16.6% of detainees, which is more than seven times their percentage in Miami-Dade County's overall population.



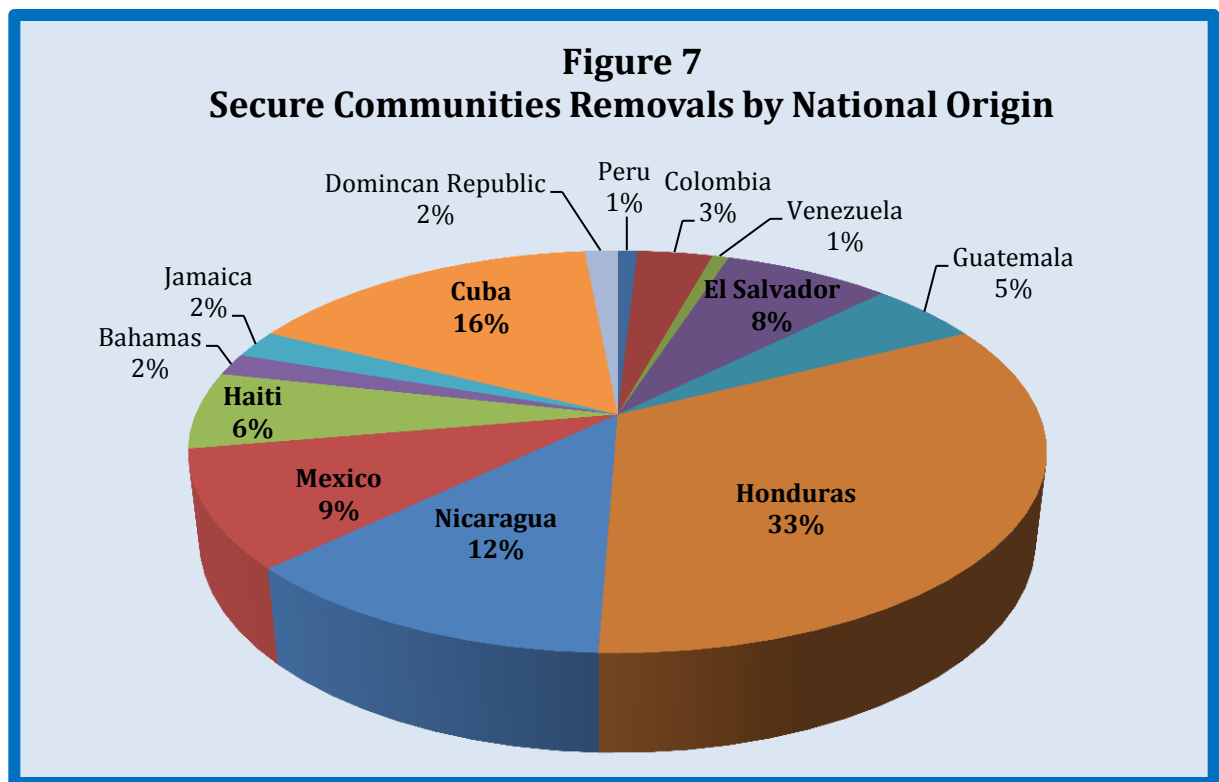
These findings show a disproportionate focus on individuals from nations that are far more likely to have some indigenous background and thus could qualify as people of color. The majority of Miami's Latino immigrants tend to be of European descent and thus "white." Cubans, Miami's largest immigrant group, overwhelmingly identify as "white" on the U.S. Census. Immigrants in Miami from South America are similar in this respect.<sup>23</sup> But, those from Central America and Mexico tend to be different. They are more likely to have some indigenous background. It is also the case that Central Americans and Mexicans are more likely to be undocumented, particularly more likely than Cubans, who seldom are undocumented immigrants in the U.S. Nevertheless, the dramatic difference between Central Americans' and Mexicans' proportions in the general Miami-

Dade County population and their detention rates under the Secure Communities program shows a disparate impact that could be a result of racial profiling.

Some of Miami-Dade County's Black immigrants, particularly those from Jamaica and the Bahamas, are also over-represented among detainees. 1.4% of the Miami-Dade County population are from Jamaica, but 2.5% of detainees were Jamaican, and only 0.3% of the County's population is made up of Bahamians, but 1.3 % of those detained for Secure Communities were from the Bahamas. Dominicans and Haitians, along with Cubans are under-represented among the detainees relative to their proportion of the County's population.<sup>24</sup>

### Removals

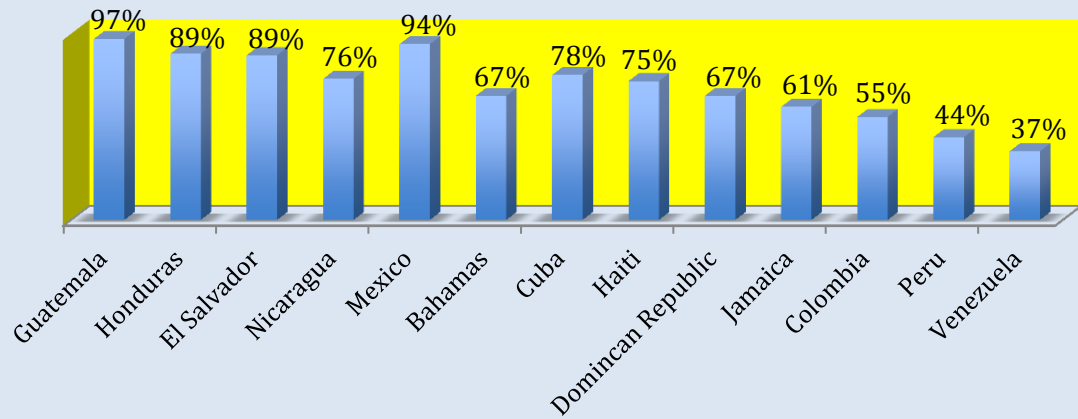
Figure 7 shows the percentages of detainees from different countries and regions who were removed. Central American and Cuban detainees are particularly likely to be removed, i.e. deported back to their country of origin, regardless of the charges against them, regardless of whether they are charged with major or minor offences.



Hondurans are much more likely to be removed than other nationalities. In fact, Hondurans constitute nearly one-third of all people removed by ICE under Secure Communities in Miami-Dade County. Also, more than one-third of those who accept voluntary departure are Honduran. Our interviews indicate that many who have been detained by Secure Communities are pressured by ICE to accept voluntary departure, an approach that appears to especially target Hondurans.<sup>25</sup>

Examining what proportion of immigrants who are detained by Secure Communities end up being deported or given voluntary departure confirms Aguila-socho, Rodwin, and Ashar's (2012) conclusion that Secure Communities, "Was designed to bring into ICE custody all those who have contact with law enforcement regardless of the actual threat they may pose." As Figure 8 shows, immigrants from the national groups who predominate in Miami-Dade County's population and who are detained under Secure Communities have a better than 50% chance of ending up being removed or given voluntary departure. The only exceptions are Venezuelans and Peruvians. Being from Central America or Mexico almost assures that, if you are ensnared by Secure Communities, you will be removed or granted voluntary departure. Nearly 95% of Mexicans and 97% of Guatemalans detained under Secure Communities end up being removed or given voluntary departure status. Our interviews with immigrants who have been detained under Secure Communities indicate that ICE agents pressure them to accept voluntary departure status, which is administratively easier for ICE agents and which does not carry the same penalties for immigrants.

**Figure 8**  
**Percent Who are Removed or Given Voluntary  
Departure Once Detained by Country of Origin**



The disparate impact of detentions and removals undoubtedly means that Secure Communities affects some groups disproportionately. City of Miami Police Chief Manuel Orosa, has indicated concern that Secure Communities will undermine community policing. As immigrants are targeted by ICE, they become less trusting of law enforcement in general. When a serious crime occurs in their community then, because of their general fear of law enforcement, immigrants will be less likely to call and cooperate with local police. The next section profiles individuals and their families and offers examples of how Secure Communities has torn apart families and disrupted businesses.



Photo Credit: Marcos Feldman

### ***Secure Communities' Impact on Families and Communities***

Our analysis above indicates that through Secure Communities ICE has been detaining and deporting many individuals who pose no threat. Secure Communities also breaks up families, creates economic hardship, and disrupts communities. A recent report found that more than 200,000 parents of U.S. citizen children had been removed in just over two years.<sup>26</sup> The best way to see and understand these impacts is through individual cases. RISEP interviewed 15 individuals about the impact Secure Communities has had on them, their families and communities. The following are only three examples of the kinds of stories told by all of the interviewees.<sup>27</sup>

### Destroying a Business for a Traffic Violation

Chel, a Mexican of Mayan descent, is a short man with dark brown skin and a profile that resembles the stone carvings of gods found on Mayan temples. In 2001, Chel worked in New Mexico, a time when that state was issuing driver's licenses regardless of immigration status. Chel obtained a New Mexico driver's license, registered his car and paid car insurance without ever being asked to produce a green card or passport.



Photo Credit:  
[PartnerforSurgery.org](http://PartnerforSurgery.org)

Having worked in the United States for many years, Chel was aware of his worker rights and would often speak out and demand his missing wages when crew supervisors illegally withheld them. In return his bosses retaliated by threatening to call immigration officials or by simply not allowing him to return to work. Chel was enraged by this injustice and often encouraged his co-workers to stand up to the supervisors, but mostly everyone was afraid and preferred not to speak up and continued to work through the injustices.



Chel moved to Florida, saved his earnings and opened several car washing businesses in different shopping plazas throughout South Florida. He employed six full-time workers and paid taxes. Chel's car washing business was prospering and so was his personal life. At church, he met, Dulce, a Mexican woman. They married and started a family.

In late September 2011, Chel and one of his employees were driving in his van along the I-95 corridor to a job site when he was pulled over by a Miami-Dade police officer. In the best English he could muster, Chel asked why he had been stopped. The police officer ignored his question and instead asked Chel and his employee to get out of the car and demanded to be told who else was hiding in the van. The police officer opened the back doors of the van looking for others. To Chel, it seemed that the officer was disappointed that no one else could be found in the vehicle. Chel again asked why they had been pulled over, but the officer offered no reason. Instead, he asked for identification; Chel handed over his expired New Mexico driver's license. Chel's employee could not produce any identification. Soon, both men found themselves handcuffed and taken to jail.

At the jail no one explained to Chel why he had been arrested or on what charges, despite the numerous times he asked. After spending two days and nights in jail, Chel and his employee were handed over to ICE officials and driven to the Broward Transitional Center (BTC), an immigration detention facility. After being detained there for two weeks Chel learned that he had been arrested for driving with an expired driver's license and that his fingerprints had been run through ICE's database to determine whether or not he was in the country legally.

At this point in the interview, Chel's palms became sweaty and his voice was filled with outrage. "How could this happen to me?" he asked. "I have never been arrested and have no previous arrest record. I have been in this country for 11 years. Both of my children were born in this country and are U.S. citizens. I have businesses here, which have been providing jobs that support families. I have even been paying taxes. I was not even driving improperly. I have had a lot of time to think while I have been in here (BTC),

and it is clear to me that that the policeman who stopped me did so because I am brown and because he was hoping to find other brown people in my van. I could see how disappointed and angry the cop got when he saw that I didn't have anyone else in my van."

Since Chel's arrest, Dulce has been helping to run his businesses. "My wife has never had to run my business and she doesn't know what to do. She already has to take care of one infant and a toddler who is mentally handicapped. She can't do this in the long run. I don't know what to do.... My businesses are going to go under water and my employees will lose their jobs and not be able to support their families. This is inhumane and economically unsound. Why would you want to arrest someone who is providing jobs to people?" Chel's future remains bleak as he waits for it to be determined by an immigration judge.

#### **An Asthmatic Child Loses Her Mother for a Traffic Violation**

Karla is in her early thirties with a strong athletic build and brown skin. Her thick dark hair falls to her waist. When we meet her, she has dark circles under her deep brown eyes that attest to her sleepless nights in detention. She looks anxious as she enters the small room where we are allowed to interview detainees at the Broward Transitional Center. Karla is a native of El Salvador. She has been living in Florida since she was eight years old and was raised by an aunt and uncle. Karla speaks English fluently without an accent. No one would notice that her first language was not English.

Eleven days before our interview and after a nine-hour shift as a waitress, Karla was on her way to pick up her daughter from daycare. Just before arriving at



Photo Credit: [archive.constantcontact.com](http://archive.constantcontact.com)

the daycare center, Miami-Dade police pulled her over along the 836 expressway in Miami. Karla is quick to explain that she has always been a very good driver. She says, "I have never been involved in any car accidents. I am always very careful when I drive. I use my signal, stop at every stop sign and never run any yellow lights."

Her attorney sitting across the table from her nods his head and says that she is correct. She continues, "I was driving in the middle lane of the 836, heading to pick up my 4-year-old daughter from school, when a Miami-Dade policewoman turns on her lights. I was nearly at the exit and I was not speeding nor was I driving badly. I was minding my own business. So I pull over on the shoulder of 836, the whole time thinking to myself, why is this cop pulling me over? I haven't done anything wrong. I was very scared because I knew my driver's license was expired and knew that I could get arrested for that."

Karla knew she was in trouble when the policewoman asked to see identification and her car registration. She describes how she fumbled around in her purse for a few minutes, then her car's glove compartment trying to buy some time to think. Eventually, the officer asked Karla if she was an "illegal" and told her to get out of the car. At that moment Karla handed her expired driver's license to the officer, who did not seem pleased. The officer told Karla to stay in the car and that she would be back in a few minutes.

Karla was too scared to ask why she had been pulled over. After a long wait, the police officer came back and announced that Karla was being arrested for driving with an expired driver's license. At that point, Karla began sobbing hysterically, pleading with the officer not to arrest her because she was on her way to pick up her daughter. She even asked the police officer to arrest her after she had picked up her daughter. The officer did allow Karla to call a relative to have her daughter picked up before placing her in the backseat of her patrol car.

Once in the back seat of the officer's car, Karla began to ask questions. Where was she being taken and for what reason? Why had she been pulled over? The police officer stated that it was illegal to drive with an expired license and that she was being taken to the station, but never answered why she had pulled Karla over. It wasn't until days later after reading her arrest report that

Karla learned the charge against her. The police report stated that Karla had been pulled over for reckless driving, a charge that Karla swears is not accurate. “That police woman lied on the report. She had no reason to pull me over,” Karla says. “She never even gave me an explanation. I had to find it in the report.”

After spending the night in jail, Karla was released with a minor traffic infraction and was told that she would have to appear in traffic court. However, as soon as she stepped outside of the jail, two ICE agents were waiting to arrest her. At this point in the interview, Karla’s face is red and tears are streaming from her swollen eyes. She buries her face in her hands and starts sobbing. She asks if she can have a minute, apologizing and noting that this has been very hard for her and her family.

After several long deep breaths she dries her tears on her sleeves and began to talk about her daughter. She says that her daughter, Katia, is asthmatic and is worried about her mother. They have never been separated from each other for more than a day. Karla’s only aunt and uncle are caring for Katia, but the little girl is having nightmares and is asking to see her Mommy. Soon, Karla’s face loses its color and the tears resurface. She describes how, back in El Salvador, her mother, father, and older brother were killed by the military. She says that she was an orphan until she came to live with her aunt and uncle in Florida. Now, ironically, her daughter is in danger of being orphaned and having to be raised by her aunt and uncle, as well.

Eleven days following her arrest, Karla had lost her job as a waitress, spoken only twice to her daughter over the telephone, and lost sleep worrying over what she can do to remain in the country she has lived in since she was 8 years old.

#### **A Family Torn Apart by Secure Communities**

Martha’s husband, Alberto, is Guatemalan. Alberto had been detained for more than a month when we interviewed Martha. While driving to work one morning, Alberto was stopped and arrested for no apparent reason. He spent weeks in detention without being able to communicate with Martha. For the first time in their married life, they were separated from each other.

Martha explained, “This is the hardest thing that my family has gone through. I don’t wish this experience on anyone, not even my worst enemy. I can’t sleep at night. My children can’t sleep at night. My children who went from straight A students are now failing their classes because they can’t think about anything else but their father. My youngest son, who witnessed the arrest, has a hard time eating and is going through such severe depression that I’ve had to put him under psychiatric care.

“My husband was the sole income earner of our family while I stayed behind and watched over our two young children. Since he’s been detained, we have not been able to pay our rent and have been eating at the local food bank. I am looking for jobs now, and as a result, have to leave my children alone to watch after themselves. There are days when I have to drag myself out of bed and put on a happy face for my children. This experience is so painfully difficult for all of us.”



Photo Credit: storify.com

Overall, RISEP’s analysis of both the data on detainees and the in-depth interviews indicate that in Miami-Dade County the Secure Communities program results in discriminatory disparate racial impact, primarily for Mexicans and Central Americans. The program tears families apart when ICE detains individuals and then removes them from the U.S. It undermines police-community relations by spreading fear and distrust of the police in the County’s many immigrant communities. A careful analysis of the charges for which immigrants are arrested also indicates that Secure Communities focuses more on immigrants who are not a threat to public safety or national security.

But what difference does this make to the broader Miami-Dade County community and its residents? A majority of Miami-Dade County’s population is

foreign-born, the highest percent of any county in the nation. A program such as Secure Communities that focuses on immigrants is likely to have a particularly strong effect in a local community such as Miami-Dade. While the stories of individual cases we present as examples may appear as isolated events, in fact they are repeated in case after case throughout the County. As we have indicated, Secure Communities is detaining and removing many individuals who are no threat to the local community or national security.

### ***Ambiguous and Inappropriate Secure Communities' Guidelines***

Secure Communities is based upon inconsistent and ambiguous guidelines that ignore local Miami-Dade County law enforcement and economic and social policy priorities and implicitly encourage the detention and removal of immigrants who have committed low level or even no crimes. To help decision-makers in Miami-Dade County and its municipalities be able to judiciously evaluate what kinds of cooperation with Secure Communities is in the County's and its municipalities' best interests, we provide an analysis of the program's guidelines.

While DHS and ICE have issued statements that Secure Communities' policy is to prioritize those who are a threat to national security or public safety, contradictions and ambiguities in those statements and the program's guidelines allow ICE officials to detain and remove any immigrant who comes into contact with local law enforcement. This section of the report analyzes the evolution of Secure Communities guidelines. We argue that in spite of DHS and ICE attempts to improve the program, Secure Communities is replete with contradictory and ambiguous guidelines that do not account for local and state enforcement policies or regional demographic, cultural and political circumstances. As such, local law enforcement becomes an unwitting arm of ICE's blanket removal of immigrants, regardless of local consequences. The inconsistencies and ambiguities, and absence of consideration for local and state conditions not only create havoc for individual families, but also put an extra burden on local

correctional facilities and court systems, including county prosecutors' and public defenders' offices.

Since its beginnings, Secure Communities has never been straightforward or unambiguous.<sup>28</sup> Although ICE created priorities, Miami-Dade County's Public

**"There is an all-out war against immigrants in this country that is hurting economies."**

Tomas Regalado,  
Mayor, City of Miami

Defender showed there are no consistent and clear rules for the translation of an arrest record charge into an ICE priority. Presumably, ICE officials translate arrest charges into ICE priorities. An analysis of official ICE statements and documents, however, do not provide much guidance of how they accomplish this.

ICE's website offers conflicting statements.

One statement argues that, "illegal immigrants can be removed before the criminal case is complete." This statement aligns with guidelines set out in a 2010 ICE memorandum<sup>29</sup> which identifies "aliens who... obstruct immigration controls," as targets of the program, but only as the third and lowest priority of Secure Communities. Yet this lowest priority is not explicitly delineated in ICE's Memorandum of Agreement (MOA),<sup>30</sup> which ICE signed with local law enforcement, or in ICE's Standard Operating Procedure (SOP).<sup>31</sup>

In the MOA (once presented by ICE to participating jurisdictions but suspended in August 2011), ICE states that the Secure Communities Program's objective is to "Identify aliens... charged with or convicted of a serious criminal offense."<sup>32</sup> Yet, an ICE memo released a year prior to the suspension of the MOAs identifies only *convicted* aliens as priorities for the Program's enforcement.<sup>33</sup> ICE's Secure Communities website (along with widespread media coverage) treats the program's goal as identifying *criminal* immigrants, not merely those *charged* with crimes or who are innocent of perpetrating a crime, yet *charged* is the language in the official MOA. The conflicting statements facilitate ICE's ability to detain and remove immigrants who are innocent of any crime.

We found similar inconsistencies when we applied ICE's three level priority scheme to arrest and detention records.<sup>34</sup> This scheme is not derived

from state or local laws nor does ICE provide explicit guidelines to determine precisely how an arrest charge should be categorized into one of its three priority levels.<sup>35</sup> The Secure Communities SOP provides a table (see Appendix 2 to this report) that outlines offense categories for each priority level. The SOP lists several offenses that comprise Level-1 offenses, amounting to what can be categorized as violent crimes, and describes Level-2 and Level-3 as “primarily property crimes” and “primarily misdemeanors” respectively.<sup>36</sup>

The memo on prosecutorial discretion, however, defines Level-1 as aliens convicted of “aggravated felonies,” as defined in §101(a)(43) of the Immigration and Nationality Act,<sup>37</sup> or two or more crimes each punishable by more than one year, commonly referred to as “felonies;” Level-2 is defined as “aliens convicted of any felony or three or more crimes each punishable by less than one year, commonly referred to as “misdemeanors;” and Level-3 is defined as “aliens convicted of crimes punishable by less than one year.”<sup>38</sup> The memo also qualifies these definitions by saying that within these levels are more and less severe offenses and attorneys should focus on the more serious offenses within each priority level.

These different definitions for ICE’s priority levels present difficulties in evaluating the program’s effectiveness and making it accountable to its stated goals. Which definition takes precedent?

ICE priority levels are also internally inconsistent. For example, they categorize simple assault as equal to kidnapping with both being a Level 1 priority. Similarly the ICE priority scheme assigns some misdemeanors to Level 1 or Level 2, while some felonies are found in the lowest risk

Level 3. Again, there appears to be no obvious, consistent way to assign arrest charges or convictions to ICE priority levels and no explicit, uniform guidelines on how to do so.

**“Where is the list of priorities? Does the U.S. government have nothing better to do than put people in the nightmare situations kids find themselves in [when their parents are deported]?”**

*Albert Carvalho,  
Superintendent, Miami-Dade  
County Public Schools*



Level-1 is described by ICE as aggravated felonies, yet in the SOP we find minor marijuana possession (which is a felony in Florida and a misdemeanor or even legal in other states, but *not* an Immigration and Nationality Act (INA) designated aggravated felony) along with aggravated felonies such as homicide and sexual assault. ICE categorizes level-2 as felony offenses. Felonies are commonly defined as crimes punishable by imprisonment of more than 1 year. Each state has different sets of crimes which qualify as felonies, so it does not make sense for ICE to be placing particular offenses in one priority level or another on the basis of felony status. Level-3 is defined as misdemeanor offenses which are commonly referred to as crimes punishable by less than one year imprisonment. These guidelines are far too simplistic for evaluation purposes (and thus for enforcement purposes) given that state by state there can be a range of severity applied to any particular crime.

Charges within each ICE priority level do not reflect the goal of protecting public safety and do not align with Florida's priorities. Level-3, for example, contains prostitution (and related offenses) and extortion, but also various minor offenses. Florida state law treats many commercialized sex offenses as felonies, while ICE categorizes them as low level misdemeanors. In Level-2 we find arson, property damage using explosives, and larceny. Larceny can include minor shoplifting. What justification is there for categorizing minor shoplifting as equal to arson or the use of explosives to destroy property? Using explosives to destroy property clearly constitutes a danger to public safety and justifies removal or deportation of an individual convicted of such a crime. But is removal the appropriate consequence for a minor charge of shoplifting or driving with an expired license?

Determining the ICE priority level from arrest charges is not straightforward. ICE's SOP table utilizes the National Crime Information Center (NCIC) uniform offense code to assign offense types to priority levels. During a traffic stop or other similar situation, local police can run a request through NCIC to find pertinent information regarding stolen property or outstanding warrants. This resource may be useful for tracking data and information at the national level, but using it to determine the fates of individuals becomes highly

problematic. The NCIC is a database for sharing criminal information among law enforcement agencies and officers and is not designed to make judgments on severity, urgency or threat level in any given instance. Yet, this is what ICE's SOP does.

Among the nearly 1,800 arrest charges we analyzed and attempted to categorize into ICE's three priority levels we found many charges that were not easily categorized. For example, NCIC codes various types of aggravated assault as 1301-1312, with simple assault coded 1313. The grouping in NCIC of a range of crimes does not imply that they are equal in severity yet ICE appears to have made exactly that judgment. Under Secure Communities enforcement ICE identifies simple assault together with aggravated assault as a Level-1 offense, yet Florida statute states that simple assault is a second degree misdemeanor punishable by no more than 60 days in jail. In other words, in Florida this is a misdemeanor that should therefore be an ICE Level-3 priority. In this example in this State the consequence of a Level-1 priority does not fit the crime. Furthermore, anecdotal evidence from the Miami-Dade County Public Defender suggests that the majority of simple assault charges are eventually dropped due to a lack of evidence.<sup>39</sup> Given that ICE may use Secure Communities to identify individuals based on charges rather than convictions, this could mean that an individual is targeted as an ICE Level-1 offender for a misdemeanor that may eventually be dropped, yet the individual is likely to be removed from the U.S. Again, Secure Communities does not align with local law or law enforcement priorities.

Furthermore, the NCIC contains some distinctions among charge types that do not necessarily exist in the state of Florida. Damage Property codes (2901-2906, assigned to ICE Level-2) are identified as applying to business, public or private property; Florida state law, however, does not recognize these distinctions, but rather distinguishes property crimes based on the value of destroyed property. It is far too simplistic for ICE to use this categorization constructed on a nationally based coding system to make value judgments concerning community risk posed by any given individual, in order to determine if they are deportable. In so doing ICE ignores the values and priorities of the

communities they claim to secure as well as individual states and local laws and policies.

Similar confusion arises when considering the application to Secure Communities of the Immigration and Nationality Act's (INA) aggravated felonies list. The INA grants Congress the power to add any crime to a list of aggravated felonies for purposes of federal immigration law. This list is arbitrary and can include crimes that are neither aggravated nor felonies at the state level.<sup>40</sup>

ICE's top priority Level-1 is defined as "aliens convicted of "aggravated felonies," as defined in §101(a)(43) of the Immigration and Nationality Act." Lower level offenders comprise the lower priority Level-2 (all other non-aggravated felonies) and Level-3 (misdemeanors) categories.<sup>41</sup> However, a side by side comparison of the INA list and the table of Secure Communities priorities quickly reveals that INA-labeled aggravated felonies are not strictly placed in Level-1 (as ICE says is the case). Level-2 offenses such as arson, money laundering, burglary and fraud (defined by ICE as non-aggravated felonies) and Level-3 offenses of prostitution and bribery (defined by ICE as misdemeanors) are all INA-labeled aggravated felonies<sup>42</sup>

The main thrust of criticism directed toward Secure Communities has focused on perceptions that the program casts too broad a net and targets too many individuals who are victims and witnesses. In response, ICE has issued statements that claim to revise the priorities.

### ***ICE's Secure Communities' Revisions***

During the lifetime of Secure Communities ICE has released several memoranda announcing policy adjustments in response to public criticism of the program. A report from the Immigration Policy Center finds, however, that in response to public concerns ICE has continually changed its messaging to broaden its definition of Secure Communities priorities and thus has expanded who Secure Communities targets.<sup>43</sup> The policy changes as outlined in several departmental memos<sup>44</sup> largely emphasize the use of discretion by ICE agents

rather than eliminate, reduce or otherwise delimit enforcement aspects of the wide-sweeping program.

A DHS appointed task force on Secure Communities recommended that ICE “withhold enforcement action based solely on minor traffic offenses” (excluding DUI, reckless driving and other infractions with the potential to cause harm or injury), a conclusion largely in line with the concerns of the public at large.<sup>45</sup> Agreeing with this recommendation, an ICE report declared the following policy change, “for individuals arrested solely for minor traffic offenses who have not previously been convicted of other crimes and do not fall within any other ICE priority category, ICE will only consider making a detainer operative upon conviction for the minor criminal traffic offense.”<sup>46</sup> To put it another way: ICE can still justify the issuance of an immigration detainer based on a minor traffic violation alone, absent any other criminal or immigration violation. It strains belief that this policy change is in good faith with the task force recommendation, or that it is indeed a policy change at all.

**Secure Communities  
“was designed to  
bring into ICE  
custody all those who  
have contact with  
law enforcement  
regardless of the  
actual threat they  
may pose.”**

-Aguilasocho, Rodwin, and  
Ashar 2012

Further analysis confirms that the emphasis of ICE memos on prosecutorial discretion “do[es] not prevent ICE from using Secure Communities to deport individuals with no or minimal criminal histories, including undocumented immigrants with no convictions, permanent residents, and visa holders. Rather, they remind ICE officials that they may consider a broad range of factors in deciding whether to initiate deportation proceedings.”<sup>47</sup> In other words, ICE “policy adjustments” ignore public criticism by expanding the justifications for detaining any given individual rather than restricting the issuance of detainers only to those who pose a risk to public safety. An evaluation of Secure Communities enforcement in Los Angeles concludes that “ICE has failed to implement Secure Communities consistent with its stated purpose,” and ultimately, “the program was designed to bring into ICE custody all those who have contact with law enforcement regardless of the actual threat they may

pose.”<sup>48</sup> Secure Communities merely replaces raids on businesses and unpopular sweeps in public places by using local law enforcement to in effect enforce immigration law.

In December 2012 ICE announced new guidelines for issuing detainers<sup>49</sup>. For several reasons we believe this new guidance for detainer policy will not significantly resolve the problems our analysis reveals of Secure Communities or change future enforcement outcomes. The “Guidance on the Use of Detainers” ICE memorandum contains vague and open-ended language similar to that which we documented in our efforts to comprehend Secure Communities policy and evaluate Miami Dade County arrest and removal data. A meticulous breakdown of the new memorandum by the Asian Law Caucus along with other analyses<sup>50</sup> shares our interpretation of the new detainer guidelines.

Rather than serving to prohibit the issuance of needless or low priority detainers, these new guidelines echo the list of removal priorities stated in the above referenced 2010 ICE

memorandum “Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens.” Except for one new guideline, the exceptions

**Being an immigrant, I know that all people need is a fair chance to get the American dream.**

Police Chief, Manuel Orosa  
City of Miami

regarding certain misdemeanor offenses,<sup>51</sup> detainers are still to be issued on largely the same basis as in the past: An individual arrested and charged with a crime (though not necessarily convicted) remains subject to a detainer hold and subsequent detention on the basis of that charge. Secure Communities remains a catch-all for anyone potentially subject to removal, who is brought through a local law enforcement agency. Given these inconsistencies it is not surprising that Secure Communities has been widely criticized as being a dragnet for *all* potentially deportable immigrants.<sup>52</sup>

It is our belief that neither the December 2012 ICE memo announcing new guidelines nor subsequent similar policy “changes” issued by ICE will significantly affect outcomes. The internal contradictions in the definition of priorities are the foundation of Secure Communities and raise concerns whether ICE agents

throughout the country can reliably and uniformly interpret and enforce Secure Communities policy.

The program's guidelines are a centrally devised policy created without consideration for the complex criminal justice landscapes of the thousands of jurisdictions where the program is implemented. The implications and effects of enforcing Secure Communities are far reaching, chief among them the potential to disrupt and tear apart honest and hardworking families. ICE authorizes their agents to use discretion in enforcing prosecutions and pursuing detentions and removals through Secure Communities and believes that such discretion is a sufficient check against criticism that Secure Communities has been or will target the wrong people. With so much at stake, a program such as Secure Communities requires thorough, meticulous guidelines and explanations up front, yet our struggles in attempting to evaluate the program represent cause for serious doubt.

Presently, the program allows ICE to detain and remove any immigrant who has contact with law enforcement. The program should be limited to detaining and removing only those immigrants who have been convicted of serious felonies. We urge Miami-Dade County and local elected officials, law enforcement leadership, and representatives of the criminal justice system to carefully and conscientiously evaluate and determine which aspects of this federal program are in the best interests of Miami-Dade County and adjust their cooperation accordingly. Specifically, we recommend the formation of a broad-based task force to study the program. The task force should be charged with carefully defining those aspects of Secure Communities that, in fact, help protect public safety and the parts of the program that contradict local law and policy. Without this knowledge, Secure Communities has the potential for creating long term damage -Miami-Dade and other communities- and problems to that will persist long after reform of current federal immigration law.

## **APPENDIX 1**

### **Methodology**

The quantitative analysis in this report is based upon arrest and detention records for individuals detained in Miami-Dade County for Secure Communities from September 1, 2009 through August 30, 2010, as well as qualitative interviews of people who had personal experience with Secure Communities. We also interviewed local elected and appointed officials. The data for the quantitative analysis came from individual jail cards and corresponding ICE detainer forms for 1,790 individuals representing 1,810 arrest and detention incidents (20 individuals were arrested twice within our time frame) that covered every Secure Communities-related detainer issued by ICE during the 12-month period. These records were obtained via a Freedom of Information Act request written and submitted by Americans for Immigrant Justice (AI Justice), which shared them with the Research Institute on Social and Economic Policy (RISEP). The individual arrest records were redacted before RISEP received them so that personal addresses and social security numbers were removed. RISEP then coded each individual jail card and detainer form focusing on nationality, alien number, charges and dispositions, gender and length of detention. Subsequently, RISEP used information accessed through the Miami-Dade County Clerk's website to follow-up on each case to determine its ultimate disposition, when such information was not clear in the original documentation.

We categorized charges using ICE's 3-level categorization scheme in which Level 1 is for the most serious and Level 3 the least serious. In an alternate analysis, we added a fourth level that consists of minor offenses and non-serious traffic violations, which ICE did not include in their scheme. When an individual was charged with multiple offenses, we coded only the charge that was most severe for which the person was convicted. For example, an individual with charges for an expired driver's license and DUI would only appear in our analysis as having been charged with and/or committed the DUI. However, if the person were found innocent of the DUI charge but guilty of driving with an expired license, the driving with an expired license conviction would be recorded and not

the DUI. RISEP worked in collaboration with attorneys at AI Justice and Miami-Dade County's Public Defender's Office to code and categorize the charges. This categorization process involved extensive comparison of charges against Florida legal statutes.

To determine the Secure Communities offense levels of the charges included in our original data set, we referred to several sources of information.

1. Appendix A on page 9 of the ICE document "Secure Communities Standard Operating Procedures," which was accessed through ICE's official website.
2. ICE memorandum, dated March 2, 2011, from director John Morton, titled "Civil Immigration Enforcement Priorities for the Apprehension, Detention and Removal of Aliens," which briefly describes the basis of the 3-level priority scheme.
3. NCIC 200 Code Manual, specifically pages 462-468, which provide the NCIC uniform offense codes that are listed in Appendix 3. This was in order to interpret our charges and attempt to fit them into ICE's priority scheme.
4. Florida statutes were sought out for detailed explanations of charges in every case where either the written charge on the original police documentation was not sufficiently clear, or when our charges appeared not to fit into ICE's priority scheme.
5. Legal consultation with defense lawyers familiar with immigration law; consultation included insight into the weight and interpretation of certain charges in the context of immigration law as well as advice for grouping certain charges together when said charges did not explicitly appear in the ICE priority scheme or in the NCIC uniform offense code.

For purposes of evaluating our charge data, we chose to follow ICE's SOP for Secure Communities, unless other sources provided compelling justification to do otherwise. In many cases, ICE's priority scheme failed to include several NCIC offenses. In these cases, we had to decide how the charge fit into ICE categories. For example, battery in any form or severity is not identified in either



ICE or NCIC. Since battery and assault are very closely associated we decided to include all battery charges into the category “Aggravated Assault,” a Level 1 priority offense, although many battery offenses can be minor misdemeanors. Below, we further outline our process of categorizing charges.

In identifying the major offenses, i.e. Level 1, ICE has described this group of offenses as including murderers, rapists and child abusers. We also included as serious or major offenses: violent felonies, violent offenses against specially protected groups (such as police officers and the elderly) whether felony or not, offenses involving the use of a weapon, sexual offenses and offenses against children. Our data included charges that indicated fleeing from and attempting to escape police custody and/or apprehension. While these charges are not identified within the ICE priority scheme, we chose to include the charges as Level 1 offenses alongside “Resisting an Officer.” Specifically, we included in Level 1, charges of “resisting an officer with violence” and also “fleeing/eluding an officer.”

When the information provided about a charge was not precise or clear, such as an instance of a charge “felony,” (which may be non-violent as in a theft) we categorized the case into the major offense category (Level 1) as opposed to moderate (Level 2). Accordingly, our categorization is likely to over-estimate the cases that are actually major offenses. The only other adjustment made is exclusion of “Resisting an Officer without Violence.” As this is clearly a non-violent charge and the widespread allegations that this charge is often applied to individuals who do not treat their arresting officers with proper deference.

For what ICE considers Level 2 offenses, the NCIC offense coding for “Traffic Offenses” is a Level 2 priority, which includes charges of Hit and Run and DUIs. However, due to the widespread belief that non-criminal traffic offenses should not be targeted by Secure Communities, we have excluded civil traffic infractions from this priority level.

No significant adjustments were made to Level 3, although there was a level of unavoidable uncertainty. This stemmed from the ambiguity of ICE/NCIC charge categories such as “Public Order Crimes” and “Health and Safety Crimes.”

We also created a fourth level of categorization to house numerous charges that were not identified by either ICE or the NCIC offense coding and appear sufficiently minor to be excluded from ICE's 3 level priority scheme. Among these charges are documentation violations regarding business operation, motor vehicle registration and similar infractions. Also included in this category are violations of probation charges that occur incidentally when another crime is committed. It should be noted that in many cases, as in the above mentioned "fleeing" charges, we placed charges into Level 1 and 2 when the nature of the charge appeared to align with previously identified categories. Also included in our Level 4 are non-criminal traffic infractions. Not included in Level 4, however, are DUI, Hit and Run, reckless driving, and other potentially dangerous traffic offenses. As indicated above, these criminal traffic violations are included as Level 1 charges. In the analysis presented in the body of the report, we re-grouped our Level 4 and traffic violations with ICE's Level 3 category as all are relatively minor offenses that ICE claims are not the priority of Secure Communities.

In short, we followed the ICE priority system. Whenever there was any ambiguity or uncertainty, we erred in the direction that would most favor the categorizations of DHS and ICE crimes. We thus believe that we were very conservative in our classification coding.

The qualitative interview respondents were detainees at the Broward Transitional Center (BTC), an ICE immigration detention center in Pompano Beach, Florida, along with some individuals who had family members detained by ICE. In total we interviewed fifteen people. The inmates at BTC are exclusively immigration detainees, and the vast majority have no criminal record or only minor traffic citations. Interviews were conducted at BTC during late September and early December of 2011. Nearly all of the interviewees had been detained in Miami-Dade County, although a few had been detained in other parts of the state. The interviews lasted no more than one hour and were held inside the interviewing rooms at BTC. Access was granted through AI Justice attorneys, who are there once a week to inform detainees of their rights.

We also interviewed a number of public officials including the Mayor of the City of Miami, Tomas Regalado, the City of Miami Police Chief, Manuel Orosa, and Miami Police Major Jorge Martin, Miami Dade County Commissioner, Sally Heyman, the Superintendent of Miami-Dade County Public Schools, Alberto Carvalho, and the Director of Corrections, Timothy Ryan. We also interviewed Miami-Dade County's Public Defender, Carlos Martinez, and worked closely with his office on our categorization of charges and convictions.

## Appendix 2

### ICE Secure Communities Priority Levels and Offenses by NCIC Code Reproduced from Secure Communities Standard Operating Procedures

Level 1 Crimes (NCIC Code)	Level 2 Crimes (NCIC Code)	Level 3 Crimes (NCIC Code)
National Security* (0101-0199, 1602, 5204-5299)	Arson (2001-2099)	Military (0201, 0299)
Homicide (0901-0999)	Burglary (2201-2299)	Immigration (0301-0399)
Kidnapping (1001-1099)	Larceny (2301-2399)	Extortion (2102-2199)
Sexual Assault (1101-1199)	Stolen Vehicles (2401-2411, 2499)	Damage Property (2901-2903)
Robbery (1201-1299)	Forgery (2501-2599)	Family Offenses (3801, 3804-3899)
Aggravated Assault (1301-1399)	Fraud (2601-2699)	Gambling (3901-3999)
Threats (1601)	Embezzlement (2701-2799)	Commercialized Sex Offenses (4001-4099)
Extortion –Threat to Injure Person (2101)	Stolen Property (2801-2899)	Liquor (4101-4199)
Sex Offenses (3601-3699)	Damage Property w/Explosive (2904-2906)	Obstructing the Police (4802-4899)
Cruelty Toward Child, Wife (3802, 3803)	Traffic Offenses (5402-5499)	Bribery (5101-5199)
Resisting an Officer (4801)	Smuggling (5801-5899)	Health and Safety (5501-5599)
Weapon (5201-5203)	Money Laundering (6300)	Civil Rights (5699)
Hit and Run (5401)	Property Crimes (7199)	Invasion of Privacy (5701-5799)
Drugs (Sentence >1 year)	Drugs (Sentence < 1 year)	Elections Laws (5999)
		Conservation (6201-6299)
		Public Order Crimes (7399)

\*National Security violations include the NCIC coded offenses of Sabotage, Sedition, Espionage, and Treason (0101-0199); Terrorist Threats (1602); and Weapons, Arson/Incendiary Devices, and Bombing offenses (5204-5299).

### Appendix 3

#### Offense Charges, with Corresponding NCIC Codes and ICE Levels, and Revised Levels Adjusted for Public Defender Input.

We were unable to clearly assign an NCIC code to every offense. In these few cases, we marked the NCIC code as “N/A” and relied on written definitions of ICE Levels to assign offenses as accurately and faithfully as possible to ICE’s priority scheme. These ambiguous cases were almost offenses so minor as to be safely assigned to Level 3, or as our analysis above explains, relegated even lower into Level 4.

Offense Charge Description	NCIC Code	ICE Levels	Revised Levels	Offense Charge Description	NCIC Code	ICE Levels	Revised Levels
Alcoholic Beverage/ Curb Drinking Prohibited	Liquor possession (4104)	3	4	Cannabis/Trafficking/Attempt	Drugs Sentence >1year	1	2
Public drinking/disorderly intoxication	liquor possession (4104)	3	4	Grand theft 3rd Degree/Vehicle	Larceny (2301-2399)	2	3
Assault	Aggravated Assault (1301-1399)	1	2	Cannabis Trafficking/Cont Sub Sell/ 10 grams/ CO	Drugs Sentence >1year	1	2
Aggravated Assault	Aggravated Assault (1301-1399)	1	2	Alcohol Violation	N/A	3	4
Battery	Simple Assault (1313)	1	2	Accessory After the Fact	N/A	3	4
Battery (Domestic Violence)	Cruelty towards child, wife (3802-3803)	1	1	Burglary/Armed	Burglary (2201-2299)	2	2
Battery/ Felony	Simple Assault (1313)	1	2	Vehicle/ Unlawful Subleasing	N/A	3	4
Battery/ Police Officer/Firefighter/Int	Simple Assault (1313)	1	2	Phono/Disk/Wire/Tape/File /Unauthorized	Fraud by Wire (2608)	2	3
Aggravated Battery	Simple Assault (1313)	1	2	Certificate of Use/Occupancy/Fail To O	N/A	3	4
Battery/Domestic/by strangulation	Cruelty towards child, wife (3802-3803)	1	1	County Ordinance Violation	N/A	3	4
Burglary w/ assault battery	Simple Assault (1313)	1	2	Racketeering/RICO	N/A	3	4
Burglary/ Unoccupied Dwelling	Burglary Nonresident (2303)	2	2	Batt/Asst/Agg/f/Arm/Deadly Miss	Aggravated Assault (1301-1399)	1	2
Burglary/Unoccupied Conveyance/Attempt	Burglary Nonresident (2303)	2	2	Leaving Scene of Accident	Traffic Offenses (5402-5499)	2	3

Offense Charge Description	NCIC Code	ICE Levels	Revised Levels	Offense Charge Description	NCIC Code	ICE Levels	Revised Levels
Burglary/Unoccupied Structure	Burglary Nonresident (2303)	2	2	Grand theft/w/c cash to defraud/utter check	Fraud (2601-2699)	2	3
Burglary tools possession	Burglary tools possession (2206)	2	2	Defraud Innkeeper/\$300 or more	Fraud (2601-2699)	2	3
Business/Conduct without License/Count	N/A	3	4	False Report of Capital Fel	Making False Report (4812)	3	3
Cannabis Sell/Man/Deliver/Possess W/	Cannabis distribution possession, & man (3560-3563)	1	2	PO/FF/Fail to Obey	Obstructing the Police (4802-4899)	3	3
Cannabis/Possession	Drug Sentence <1year	2	2	vehicular homicide/fail to stop	Homicide (0901-0999)	1	1
Cannabis/Possession/Less than 20 grams	Drug Sentence <1year	2	2	Drug Para Possession/Controlled Subs/Loit & Protc	N/A	3	4
Cocaine Possession	Cocaine (insert specifics) (3533)	1	2	Leav/Scn/w/o/Info	N/A	3	4
Cocaine/sell/man/deliver/p ossess w/int	Cocaine (insert specifics) (3533)	1	2	Retail Theft/300>	Larceny (2301-2399)	2	3
Attempted/conspiracy murder	Homicide (0901-0999)	1	1	ControlledSubs/Purchase/P OSN/W/I/Heroin	Drugs Sentence >1year	1	2
Contributing to Delinquency/Dependency	Contrib Delinq Minor (3805)	3	3	Controlled Subs/Possession/Heroin	Drugs Sentence >1year	1	2
Control Substance Possession	Drug Sentence <1year	2	2	Habeas Corpus	N/A	3	4
Criminal mischief/ 1,000 or more	Property Damage (2901-2903)	3	3	Police officer/failure to obey	Obstructing the Police (4802-4899)	3	3
Criminal mischief/ 200 or less	Property Damage (2901-2903)	3	3	S/T/CRIM MISC/ BURG TOOLS/BURG	Burglary (2201-2299)	2	2
Criminal mischief/ over 200, under \$1	Property Damage (2901-2903)	3	3	Operating Business W/O License	N/A	3	4
Deprive officer of means of protection	Resisting an Officer (4801)	1	2	Criminal Mischief	Damage Property (2901-2903)	3	3
Disorderly Conduct	Public order crimes (7399)	3	3	BURG/UNOC/DWELL/GT/V OP	Probation Violation (5012)	2	2

Offense Charge Description	NCIC Code	ICE Levels	Revised Levels	Offense Charge Description	NCIC Code	ICE Levels	Revised Levels
Expired/No Driver's License	N/A	3	4	GT 3RD/VOP	Probation Violation (5012)	2	2
DWLS	N/A	3	4	3rd Contract-\$5000.00 Contracting/Engage W/O License	N/A	3	4
Domestic violence	Cruelty towards wife,child (3802-3803)	1	1	Assault/Police Officer/Firefighter/Int	Aggravated Assault (1301-1399)	1	2
Domestic violence/ violation of injunct	Cruelty towards wife,child (3802-3803)	1	1	Felon in possession of firearm/ammo	Weapon (5201-5203)	1	3
Drivers License Expired more than...	N/A	3	4	Trespass On School Grounds/ No Author/S	Trespassing (5707)	3	3
DUI	Driving Under Influence (5403-5404)	2	2	BURG/UNOC STRU/GT 3 DEG/POSN BURG TOOLS/VOP	Probation Violation (5012)	2	2
DRLS/bond surr	N/A	3	4	Bond Surrender	N/A	3	4
Drug para posn	N/A	3	4	Engage In Sexual Act With Familial Child	Sexual Assault (1101-1199)	1	1
DUI/Bond Surrender	Driving Under Influence (5403-5404)	2	2	Child Abuse/Aggr/Great Bodily Harm	Cruelty Towards Child (3802)	1	1
DUI/DWI/ testing/ 2nd or subsequent Refu	Driving Under Influence (5403-5404)	2	2	BURG/UNOC DWELL/ 3RD DEG	Burglary (2201-2299)	2	2
False Information to Law Officer/Invest	Obstructing the Police (4802-4899)	3	3	BATTERY/VOP	Probation Violation (5012)	2	2
False name/id after arrest	Obstructing the Police (4802-4899)	3	3	Kidnapping/Weapon	Kidnapping (1001-1099)	1	1
False report/ Crim/ FLS name id/aft / arre	Making False Report (4803)	3	3	/SEL/DEL/W/ INT/ HER W/ INT/CAN W/INT/RES/W/O/VIOL	Drugs Sentence > 1year	1	1
Fleeing/elude pd/lights & sirens	Flight to Avoid (4902)	3	4	Workmens Com/Fail to Secure/100k	N/A	3	4
Fugitive	Escape (4901)	3	4	BURG/UNOCC/CONV/CRIM MIS/200-1000	Damage Property (2901-2903)	3	3

Offense Charge Description	NCIC Code	ICE Levels	Revised Levels	Offense Charge Description	NCIC Code	ICE Levels	Revised Levels
Grand Theft	Larceny (2301-2399)	2	3	Burg/Unocc/Dwell/GT3/ Criminal Mischief	Burglary (2201-2299)	2	2
Grand Theft 3rd Degree	Larceny (2301-2399)	2	3	Child Neglect/Great Harm Domestic Violence	Cruelty Towards Child (3802)	1	1
Grand Theft 3rd Degree Attempt	Larceny (2301-2399)	2	3	Trespass and Larceny/Utility	Larceny (2301-2399)	2	3
GT 3rd/ Credit Card 100+	Larceny (2301-2399)	2	3	SEX OFND/VIOL REGIS	Failure to Register as a Sex Offender (3612)	1	1
Indecent Exposure	Indecent Exposure (3605)	1	1	Burglary/with Assault or battery Occupied/Dwelling	Aggravated Assault (1301-1399)	1	2
Insurance claim/false, fraudulent	Fraud (2699)	2	3	Cocaine Trafficking 400>/<150K	Drugs Sentence >1year	1	2
Insurance fraud/staged accident	Fraud (2699)	2	3	Parks Violation/Arrestable/ County Ordinance	N/A	3	4
Kidnapping	Kidnapping (1001-1099)	1	1	Restricted License Violation	N/A	3	4
Leave scene of an accident/ Property Damage	Hit & Run (5401)	1	1	See code 54 and 17	Larceny (2301-2399)	2	3
Leaving scene of crash/injury	Hit & Run (5401)	1	1	Bat/PO/Fire Fight Intake OFC	Resisting an Officer (4801)	1	2
License/doing business without	N/A	3	4	Burg/Asslt/Arm/Batt/Agg/D weapon	Aggravated Assault (1301-1399)	1	2
Litter law	N/A	3	4	Burglary/ Occupied Dwelling	Burglary (2202-2204)	2	2
Loitering or Prowling	N/A	3	4	Tresp Educ Facil/Batt/Educ Inst Interf	N/A	3	4
Murder 1st degree/ law enforcement officer	Homicide Premeditated Police Officer (907-908)	1	1	Veh/Alt ID/Posn/Sal/Veh/Titl/Grand Theft	N/A	3	4
No motorcycle endorsement	N/A	3	4	Arson 2nd Degree/Fire Bomb Possession	Arson (2001-2099)	2	2
Non child support	Neglect child (3806)	3	3	Petit Theft 2nd Conv	Larceny (2301-2399)	2	3
Obstruct Traffic/Solicit w/o permit	N/A	3	4	Coc/Purch/Att	Drug Sentence >1year	1	2



Offense Charge Description	NCIC Code	ICE Levels	Revised Levels	Offense Charge Description	NCIC Code	ICE Levels	Revised Levels
Obstruction by disguised person	Obstructing the Police (4802-4899)	3	3	Credit Card/Theft of	Larceny (2301-2399)	2	3
Out on probation	N/A	3	4	Credit Cards/Goods/300+	Fraud- Illegal Use of Credit cards (2605)	2	3
Petit retail theft	Shoplifting (2303)	2	3	Illegal Drugs/Trafficking	Drugs Sentence >1year	1	2
Petit Theft	Shoplifting (2303)	2	3	Controlled Substance/Sell/Man/Del/Posn	Drugs Sentence >1year	1	2
Phonograph recording/Unauthorized copy	Larceny (2301-2399)	2	3	Panhandling/Aggressive/Obstructive/Cou	N/A	3	4
Possession of stolen DL	Possess Stolen Prop (2804)	2	2	Cann/Purch/Attmp	Drugs Sentence <1year	2	2
Possession of unlawful article/jail/controlled sub/vop	Probation Violation (5012)	2	2	Unlawful Dis of Handi Decal	N/A	3	4
Prost/Sol Anot To Co	Commercialized Sex Offenses (4001-4099)	3	3	Alcohol Posn/Cocaine Posn	Cocaine (insert specifics) (3533)	1	2
Prostitution/ Commit,Engage in	Commercialized Sex Offenses (4001-4099)	3	3	Alcoholic Beverages/Selling Hour Viol	N/A	3	4
Prostitution/Direct Another to Place of	Commercialized Sex Offenses (4001-4099)	3	3	Alcoholic Beverages /Incidental/Sale of	N/A	3	4
Reckless driving	Traffic offense remarks (5499)	2	3	CCF/Trespass Sch/ Weap	Trespassing (5707)	3	3
Record disk/wire tape file unauthorized	Fraud by Wire (2608)	2	3	Unemployment Comp Fraud/ GT 3	Larceny (2301-2399)	2	3
Refusal to sign and accept summons	N/A	3	4	Racketeer/Conspire to	N/A	3	4
Resisting officer with violence to his	Resisting an officer (4801)	1	2	Vehicle Title Fraud/App	Fraud (2601-2699)	2	3
Resisting officer without violence	Resisting an officer (4801)	3	3	Utter Forged Instr 2CTS/GT 3RD DEG/PROB VIOL	Probation Violation (5012)	2	2
Retail Theft	Shoplifting (2303)	2	3	COCN POSN SEL MAN DEL	Drugs Sentence >1year	1	2
Robbery/Armed/Weapon Probation Viol	Probation Violation (5012)	1	1	False Imprisonment (domestic violence)	Cruelty to Wife, Child (3802-3803)	1	1

Offense Charge Description	NCIC Code	ICE Levels	Revised Levels	Offense Charge Description	NCIC Code	ICE Levels	Revised Levels
Robbery/strong arm	Robbery (1201-1299)	1	1	Cocaine Possession/Resist w/o Violence	Cocaine Possession (3532)	1	2
Sanitary Nuisance	N/A	3	4	Obstr Just Threat Intm	Obstructing the Police (4802-4899)	3	3
Lewd & Lascivious/ Sexual battery on child	N/A	1	1	3rd Firearm	N/A	3	4
Sexual Battery	Sexual Assault (1101-1199)	1	1	Cont Sub/Posn of Place/Purpose of Traf	Drugs Sentence >1year	1	2
Tamper/ Wit/Vic/ 3rd degree felony	Obstructing the Police (4802-4899)	3	3	Shopping Cart/Possession	N/A	3	4
Tobacco products/dealer/ posting sign		3	4	Forgery	Forgery (2501-2599)	2	2
Trespass Property/After Warning	Trespassing (describe offense) (5707)	3	3	MURDER 2ND DEG/DWEAP	Homicide (0901-0999)	1	1
Trespass/Drop O/T Struc/Convey/Defy	Trespassing (describe offense) (5707)	3	3	WEAPON/USE COMT FEL	Weapon (5201-5203)	1	1
Utter check	Forgery (2501-2599)	2	2	CCW/Resist w/o Viol	Resisting an Officer (4801)	1	2
Vehicle registration/failure to have	N/A	3	4	Alcohol/Open Container/ Possession Near Store	Liquor Possess (4104)	3	3
Violation of injunct	N/A	3	4	Writ of Attachment/ Material Witness	N/A	3	4
VOP	Violation of Probation (VOP) (5012)	2	2	Credit Card/Forgery/Intent to Defraud	Fraud- Illegal Use Credit Card (2605)	2	3
W/C cash to defraud	Fraud (2601-2699)	2	3	Communications Fraud/ Less than \$300	Fraud (2601-2699)	2	3
Writ of bodily attachment	N/A	3	4	Petit Theft/Larceny	Larceny (2301-2399)	2	3
Burglary occupied conveyance	Burglary (2201-2299)	2	2	Cann/Purch/Attmpt	Drugs Sentence <1year	2	2
GT 3rd Day 1	Larceny (2301-2399)	2	3	parks/glass prohib	N/A	3	4
Drug Para posn w/intent	N/A	3	4	Trespass	Trespassing (describe offense) (5707)	3	3

Offense Charge Description	NCIC Code	ICE Levels	Revised Levels	Offense Charge Description	NCIC Code	ICE Levels	Revised Levels
Cannabis Possession 20 Grams or less/infrom/pos unlawful article/jail/controlled subs/poss/VOP	Probation Violation (5012)	2	2	Battery PO	Aggravated Assault 1301-1399	1	2
Robbery carjacking/VOP	Probation Violation (5012)	2	2	Larceny	Larceny (describe offense) (2399)	2	3
Assault/Aggravated Battery	Simple Assault (1313)	1	2	Credit Card/Dealing in Anothers	Fraud- Illeg Use Credit Card (2605)	2	3
Deadly Missile/Shoot, Throw Occupied Conveyance	N/A	1	3	w/c issue/150+	N/A	3	4
Ill Drugs Traf/Cons	Drugs Sentence >1year	1	2	Battery/Elderly	Aggravated Assault (1301-1399)	1	2
Cannabis/Possession/More Than 20 grams	Drugs Sentence >1year	1	2	Grand Theft/1st Degree	Larceny (2301-2399)	2	3
Tresp/Occupied Structure or Conveyance	Trespassing (5707)	3	3	Organized Fraud/50,000 or More	Fraud (2601-2699)	2	3
Burg/Occ/Dwell	Burglary (2201-2299)	2	2	DWLS/FIN RESP	N/A	3	4
Theft/Copper/Utility/Comm Provider/Cau	Larceny (2301-2399)	2	3	DW/OL/DWLS/DEATH,INJ	Hit and Run (5401)	1	3
Molestation on Child 12-16 Years	Sexual Assault (1101-1199)	1	1	Hold For Magistrate	N/A	3	4
Armed Robbery or Burglary	Armed Robbery (1201-1209)	1	1	Burg/Unocc/Conv/Petit Theft/Crim Misc	Burglary (2201-2299)	2	2
Attempted Felony Murder	Homicide (0901-0999)	1	1	UNSP Financial Responsibility	Family Offenses (3804-3899)	3	3
NARC Impl/Posn/ w/o R	N/A	3	4	grand theft 3D/Vehicle/ Attempt/Motorcycle	Larceny (2201-2299)	2	3
License unlawfully alter	Forgery (2501-2599)	2	2	3rd Degree/Veh/VehTitle/ Poss W/Int to Defraud/Veh W/ Altered ID/Poss Sale	Fraud (2601-2699)	2	3

Offense Charge Description	NCIC Code	ICE Levels	Revised Levels	Offense Charge Description	NCIC Code	ICE Levels	Revised Levels
Vehicle registration/expired more than	N/A	3	4	COKE/SELL/DEL W/INT	Drugs Sentence >1year	1	2
Alcohol/Consume Near Store Selling	Liquor possession (4104)	3	3	CANN/SELL/DEL/POSN/CANN/SELL.CONSP	Drugs Sentence >1year	1	2
Vehicle/Permit/Unauthorized	N/A	3	4	Motor Vehicle Insurance Card/False/Fraud	Fraud (2601-2699)	2	3
Burglary/unoccupied conveyance	Burglary (2201-2299)	2	2	Identification/Info/Use Fraudulently	Fraud (2601-2699)	2	3
Stolen Property/Dealing IN	Stolen Property (2801-2899)	2	2	Uttering Check/GT 3rd DEG	Fraud (2601-2699)	2	3
Tamper/Wit/Vic/Misd	Obstructing the Police	3	3	Uttering/Forged/Instruments	Forgery (2501-2599)	2	2
False Improvement/ Dealy Weap	N/A	3	4	W/C Issue 50+	N/A	3	4
Aggravated Stalking	Intimidation (1316)	1	2	Child Neglect/No Great Harm/Domestic Violence	Sexual Assault (1101-1199)	1	1
Trespass Property other than structure	Trespassing (describe offense) (5707)	3	3	Tamper/Wit/Vic/Life/Capital Felony	Obstructing the Police (4802-4899)	3	3
Possess Counterfeit/Payment	Forgery (2501-2599)	2	2	Viol Non/Res Reg	N/A	3	4
Park/Entering After Hours/Miami Beach Ordinance	N/A	3	4	Cocaine/Sell/DEL/POSN W/INTENT/1000 FT	Cocaine (insert specifics) (3533)	1	2
Petit Theft Previous Conviction	Larceny (2301-2399)	2	3	Drag Racing On Highway	N/A	3	4
Tamper with Evidence/witness	Evidence - Destroying 4804/Witness - Dissuading 4805	3	3	Vin, Decal/Possession of Counterfeit	Forgery (2501-2599)	2	2
Threaten Public Servant	Threat Federal Protectee (1601)	1	2	DWLS/Financial Resp	N/A	3	4
ORG/Fraud/0-20K/GT	Fraud (2601-2699)	2	3	3rd Degree/Bond Surrender	N/A	3	4

Offense Charge Description	NCIC Code	ICE Levels	Revised Levels	Offense Charge Description	NCIC Code	ICE Levels	Revised Levels
ID/Use/Poss Frd	Fraud (2601-2699)	2	3	Expired DL	N/A	3	4
Drivers License/ Posn Similitude/Name/A	Fraud (2601-2699)	2	3	Expired Registration	N/A	3	4
Unnatural and Lascivious Act	Sexual Assault (1101-1199)	1	1	Trafficking/Contraband/Prescription(more than 24k less than 100k)	Drugs Sentence >1year	1	2
Tag Not Assigned to Vehicle	N/A	3	4	Flee/Elude PO/Hgh Sp	Flight to Avoid (4902)	1	2
Prostitution/ Entering, Remaining in a	Commercialized Sex Offenses (4001-4099)	3	3	Illegal Reentry	Illegal Entry (301)	3	3
Out on Felony Bond	N/A	3	4	Property/Malicious Destruction/County	Property Damage (2901-2903)	3	3
Concealed Weapon/Carrying	Carrying Concealed Weapon (5202)	1	3	PUB AST FRD/GT	Fraud (2601-2699)	2	3
Cocaine Possession (Crack)	Drug Sentence >1year	1	2	Burg/Unocc Struct/ Att	Burglary (2201-2299)	2	2
Prostitution/ Derive Support From Proce	Commercialized Sex Offenses (4001-4009)	3	3	Firearm/Alter Remove Serial Number	Altering Identification On Weapon (5201)	1	3
Escape Police Officer	N/A	3	4	Veh/Posn/w/Tank/Trespas Property/Defy	Trespassing Remarks (5707)	3	3
Concealed Firearm/Carrying	Carrying Concealed Weapon (5202)	1	3	3rd/w/Tank/Tresp Agri Site	Trespassing Remarks (5707)	3	3
Firearm/Discharge in Public	N/A	3	4	ID/USE/POSSESS/FRD/CRE DIT CARD/100+ CREDIT CARD/FORGERY/3 CTS	Possess Forged Remarks (2506)	2	2
Weapon, Firearm/Improper Exhibition	N/A	3	4	Introduction/Possession/Art ical/Jail	N/A	3	4
Public Servant/ Influence Performance/T	Bribery (5101-5199)	3	3	BCH PRESV/SEA OATS	Conservation Environment Remarks (6205)	3	3
Fleeing or Eluding Police Office	Flight to Avoid (4902)	3	4	Motor vehicle license/Registration/Cou	N/A	3	4
Comm Vehicle Marker Viol	N/A	3	4	Hold For Department of Corrections	N/A	3	4
DV Injunction Violation/DV	N/A	3	4	Credit Card/Equipment to make/Possess,	Possess Forged Remarks (2506)	2	2

Offense Charge Description	NCIC Code	ICE Levels	Revised Levels	Offense Charge Description	NCIC Code	ICE Levels	Revised Levels
Tamper/Phys Evid	Evidence Destroying (4804)	3	3	Tamp/Wi/Vict/2d Fe	Obstructing the Police (4802-4899)	3	3
Cocaine/Purchase/Posn/w/Intent to Purch	Cocaine (insert specifics) (3533)	1	2	PTR Rel/Dom Viol	Cruelty Toward Wife/Child (3802-3803)	1	1
DL/Appl/False/Info/DL/False/Affidavit	Fraud (2601-2699)	2	3	Child Neglect/No Great Harm	Neglect child (3806)	3	3
Cocaine/Purchase/Posn/w/Intent to Purch	Cocaine (insert specifics) (3533)	1	2	Noise/Produce Loud, Excessive/County	Public Peace (describe offense) (5399)	3	3
AntiShoplift/Inventory Device/Use/Atte	Larceny (2301-2399)	2	3	Cannbis Sale/School	Marijuana sell (3560)	1	2
Cannabis /Purchase/Posn/w/Intent to Purch	Drugs Sentence <1year	2	2	Domestic Violence Warr (Failure to Appear)	Failure To Appear Remarks (5015)	3	4
Counterfeit/Labels/Sale/Purchase/Posse	Forgery (2501-2599)	2	2	Introduction, Possession unlawful arti	N/A		
Obsruction of Justice/THRTN/INTIMDT/PRVNT	Obstructing the Police (4802-4899)	3	3	Cannabis Trafficking	Drugs Sentence >1year	1	2
Traff/Coke	Drugs Sentence >1year	1	2	Controlled Substance/Importation Into	Drugs Sentence >1year	1	2
G/T3D/Cont/Contr/Engag/W/O/Lic	Larceny (2301-2399)	2	3	ENG CHILD FAM SEX 3CT/FAM CHILD ATTEMPT	Cruelty Toward Child (3802)	1	1
Falsely Personate An Officer	Fraud Imperson (2604)	2	3	Insurance/Proof Required/Misrepresented	N/A	3	4
City ORD/ AD State Law		3	4	Careless Driving	N/A	3	4
Organized Fraud/ \$20,000 or Less	Fraud (2601-2699)	2	3	G/T Vehicle/ALT ID	Vehicle Theft Remarks (2499)	2	2
Injunction Violation/Repeat/Sexual/Dat		3	4	Grand Theft/3D/Veh/Veh Title/Forged	Vehicle Theft Remarks (2499)	2	2
Alcohol/Open Container in Vehicle/Count	Liquor Possession (4104)	3	3	Robbery By Sudden Snatching	Forcible Purse Snatching (1210)	1	1
Contract w/o License	N/A	3	4	Controlled Substance/ Own/Rent For Purpose of traffic	Drugs Sentence >1year	1	2

Offense Charge Description	NCIC Code	ICE Levels	Revised Levels	Offense Charge Description	NCIC Code	ICE Levels	Revised Levels
LSA/Injury	Hit and Run (5401)	1	2	ID/CONTRFT/FICT/PRSN	N/A	3	4
Trespass/Unoccupied Structure or Conve	Trespassing (5707)	3	3	WORK COMP/FAIL/PAYME	N/A	3	4
Out on Felony Bond	N/A	3	4	LOITER/OBSTRUCT STRT	N/A	3	4
Trespass Horticultural Property	Trespassing (5707)	3	3	CRIM MIS/200-1000	Damage Property (2901-2903)	3	3
Child Abuse/No Great Bodily Harm	Family Offenses (3804-3899)	3	3	FIN TRANS/UNL PROCED	N/A	3	4
Cannabis/Trafficking/25-2000LBS	Drugs Sentence >1year	1	2	STR PERFORM W/O PERM	N/A	3	4
murder/premeditated/attempt/fa/ddly weap	Homicide (0901-0999)	1	1	TEMP TAG VIOLATION	N/A	3	4
Grand theft 2nd Degree	Larceny (2301-2399)	2	3	NVDL/Bond Surrender	N/A	3	4
Stalking	Intimidation (1316)	1	2	Grand theft 3rd/contracting w/o license	Stolen Property Remarks (2899)	2	2
Cannabis Purchase	Drugs Sentence <1year	2	2				

## Endnotes

<sup>1</sup> Thanks to all those who contributed to this report. Yue Zhang worked on the initial and most difficult part of the original data coding, entry, and cleaning. Significant subsequent work was done by RISEP's Bernardo Oseguera, RISEP's POSSE interns for Summer 2012, Marielena Lima and Grether Barbon and by RISEP intern, Daniela Saczek. Special thanks must also be given to a few key people who provided critical feedback and support throughout the process of this research. Those people include Susana Barciela, Tania Galloni, Eddie Ramos, Sarah Wood Borak, Bonita Jones-Peabody, Claudia Carrazana, Franco Torres, Jonathan Fried, and Carol Stepick. We also want to thank those who funded this project, The Sociological Initiatives Foundation and the Ford Foundation.

<sup>2</sup> [http://www.ice.gov/secure\\_communities](http://www.ice.gov/secure_communities). In December 2012, ICE/DHS announced changes to the Secure Communities program. While a step in the right direction, our analysis below concludes that it is likely that Secure Communities will have continued negative, unfortunate effects such as those detailed in this report.

<sup>3</sup> Immigration enforcement has shifted to using the term "remove" rather than "deport."

<sup>4</sup> See Appendix 1, Methodology at the end of this report for further details on how the analysis was conducted.

<sup>5</sup> This study is consistent with other empirical studies of Secure Communities that found many detainees guilty of only minor violations or entirely innocent of any crime. See, *inter alia*, TRAC Immigration, "Who Are the Targets of ICE Detainers." February 20, 2013 at <http://trac.syr.edu/immigration/reports/310/>.

Francis, Thomas. "Security Breach," Florida Center for Investigative Reporting. January 31, 2011. <http://fcir.org/2011/01/31/security-breach/>.

Waslin, Michele, Ph. D. "The Secure Communities Program: Unanswered Questions and Continuing Concerns," Immigration Policy Center. November 2010. <http://immigrationpolicy.org/special-reports/secure-communities-program-unanswered-questions-and-continuing-concerns>.

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<sup>6</sup> The Appendix on Methodology details on our methods. The cases we analyzed were obtained by a FOIA request and were from September 1, 2009 through August 30, 2010.

<sup>7</sup> There were 1,810 records in the 12 month period, but 20 individuals were each arrested twice and detained twice under Secure Communities. We counted these cases only once.

<sup>8</sup> ICE detainers can be issued for reasons other than identification through Secure Communities; however the data in this report is based on a request for information from Miami-Dade County Corrections specifically for ICE detentions related to Secure Communities. It may be possible other detainers were included, but for this report it is assumed all detainers originated as a result of Secure Communities implementation.

<sup>9</sup> See <http://www.documentcloud.org/documents/367098-ice-review-stats.html>.

<sup>10</sup> Localities that have attempted to opt out of Secure Communities include Los Angeles, Arlington VA, Santa Clara CA, San Francisco and others. See, *inter alia*, National Immigration Forum, "Community and Courtroom Responses to Immigration Detainers." [http://www.immigrationforum.org/images/uploads/2012/Detainers\\_Bonds\\_Litigation.pdf](http://www.immigrationforum.org/images/uploads/2012/Detainers_Bonds_Litigation.pdf).

Constantini, Cristina, Foley, Elise. "D.C. Passes Bill To Restrict Secure Communities Immigration Enforcement Program," Huffington Post. July 10, 2012. [http://www.huffingtonpost.com/2012/07/10/dc-immigration-law-secure-communities-ice\\_n\\_1663214.html](http://www.huffingtonpost.com/2012/07/10/dc-immigration-law-secure-communities-ice_n_1663214.html).



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Aguilasocho, Edgar, Rodwin, David, and Ashar, Sameer. "Misplaced Priorities: The Failure of Secure Communities in Los Angeles County. Immigrant Rights Clinic, University of California, Irvine School of Law, January 2012.

Baer, April. "Multnomah County Considers Change in Jail Release Policy," Oregon Public Broadcasting. April 3, 2013. <http://www.opb.org/news/article/multnomah-county-considers-change-in-jail-release-policy/>

Beckett, Katherine, Evans, Heather. "Immigration Detainer Requests in King County, Washington: Costs and Consequences," University of Washington. March 26, 2013.

<sup>11</sup> In some cases detainees are released, but are then re-arrested by ICE.

<sup>12</sup> See "Insecure Communities, Devastated Families" published in part by the NYU School of Law Immigrant Rights Clinic.

[http://familiesforfreedom.org/sites/default/files/resources/NYC%20FOIA%20Report%202012%20FINAL\\_1.pdf](http://familiesforfreedom.org/sites/default/files/resources/NYC%20FOIA%20Report%202012%20FINAL_1.pdf).

Greene, Judith. "The Cost of Responding to Immigration Detainers in California" Justice Strategies, August 22, 2012. <http://www.justicestrategies.org/publications/2012/cost-responding-immigration-detainers-california>.

<sup>13</sup> [http://www.ice.gov/secure\\_communities](http://www.ice.gov/secure_communities)

<sup>14</sup> Department of Homeland Security Office of Inspector General. "Operations of United States Immigration and Customs Enforcement's Secure Communities," Revised April 2012. Secure Communities was developed under the Consolidated Appropriations Act of 2008 that appropriated funding for ICE to "improve... efforts to identify aliens convicted of a crime, sentenced to imprisonment"; and ICE's stated goals for the program and their packaging of it to the media and public were nearly identical to this directive.

<sup>15</sup> This is consistent with ICE's own figures nationwide where, for example, approximately 29% of removals were non-criminal as of a March 2011 report. In subsequent versions of this report, figures for non-criminal matches and removals are no longer included, which thus underestimates the impact of Secure Communities. Immigration and Customs Enforcement, "IDENT/IAFIS Interoperability Statistics." Department of Homeland Security. March 7, 2011. [http://ccrjustice.org/files/nationwide\\_interoperability\\_stats-fy2011-feb28.pdf](http://ccrjustice.org/files/nationwide_interoperability_stats-fy2011-feb28.pdf)

<sup>16</sup> These charges exclude DUI, reckless driving and other infractions with the potential to cause harm or injury.

<sup>17</sup> [http://www.ice.gov/secure\\_communities](http://www.ice.gov/secure_communities).

<sup>18</sup> To determine this information we referred to the ICE immigration hotline, which tracks individuals by their names and alien numbers. The automated service provides numerous responses signaling the current status of an individual's immigration hearing process. We were unable to identify a final immigration decision for 855 cases in Miami-Dade County. For 501 of these, the immigration hotline reported "individual not in system" or "no information." The remaining 354 cases had no alien number to follow up with.

<sup>19</sup> Voluntary departure allows the individual to leave on his or her own, maintaining the possibility of legally returning to the country of removal in the future.

<sup>20</sup> A similar argument is made more generally in Ray, Rachel R. "Insecure Communities: Examining Local Government Participation in US Immigration and Customs Enforcement's 'Secure Communities' Program, *Seattle Journal for Social Justice*, vol. 10, no. 1, 2011:327-386.

<sup>21</sup> Hoefer, Michael, Rytina, Nancy, and Baker, Bryan. "Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2011," Population Estimates, March 2012, Office of Immigration Statistics, Department of Homeland Security, United States: Table 3, page 5. Available at [http://www.dhs.gov/xlibrary/assets/statistics/publications/ois\\_ill\\_pe\\_2011.pdf](http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2011.pdf)

<sup>22</sup> *ibid*. Unfortunately, we do not know the numbers of undocumented immigrants from particular countries at the county or even state level. Information on undocumented immigrants by country of origin is only available at the national level. Recently the Rights Working Group's Face the Truth campaign released a one-page brief, titled "Ban Racial Profiling in Immigration Enforcement," outlining the nature of racial profiling in immigration programs that partner DHS with state and local law enforcement.

<http://rightsworkinggroup.org/sites/default/files/Ban%20Racial%20Profiling%20Immigration%20Enforcement.pdf>

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<sup>23</sup> Logan, John R.. "How Race Counts for Hispanic Americans." 2003. Forman, Tyrone A., Carla Goar and Amanda Lewis. "Neither Black nor White? An empirical test of the Latin Americanization thesis," *Race and Society*, vol 5, Issue 1, 2002: 65-84. Grenier, Guillermo and Lisandro Perez. *The Legacy of Exile: Cubans in the United States*. Allyn and Bacon, 2003.

<sup>24</sup> It does appear as if there may be a disparate racial impact for young adult immigrants. When we look at only 21-30 year olds we see that twice as many Haitians as Cubans in that age group were detained under the Secure Communities program.

<sup>25</sup> When we examined number of days detained we find no evidence that any group of detainees is systematically held longer than another. Examination of the average number of days detained and those individuals detained longer than ICE's requests for two days, reveals that Central Americans and Mexicans do not stand out. In terms of average days detained they were in the middle with the maximum number of detention days experienced by Bahamians (4.18 average days) and the minimum by Peruvians (2.36 days). Similarly in terms of the percentage that were detained more than the two days that ICE requests, Central Americans and Mexicans do not stand out. Between 32 and 43% of each nationality were detained for more than two days. Dominicans at 23.3% were the group with the lowest percentage of individuals detained for more than two days while Brazilians at 55.6% had the highest percentage. These cases nearly always result from weekend or holidays, which are excluded from the 48-hours

<sup>26</sup> Wessler, Seth Freed. "Nearly 205k Deportations of Parents of U.S. Citizens in Just Over Two Years," *Colorlines*. December 17, 2012 at [http://m.colorlines.com/archives/2012/12/us\\_deports\\_more\\_than\\_200k\\_parents.html](http://m.colorlines.com/archives/2012/12/us_deports_more_than_200k_parents.html)

<sup>27</sup> Examples of similar cases from California can be found at Raha Jorjani, "Sketches of Three 'Level 1 Offenders'," UC Davis Immigration Law Clinic, February 2013.

<sup>28</sup> Our critique contained in this section of the report is similar to that of Kholi, Aarti, Markowitz, Peter L., Chavez, Lisa. "Secure Communities by the Numbers: An Analysis of Demographics and Due Process," Chief Justice Earl Warren Institute on Law and Social Policy, University of California, Berkeley Law School. October 2011.

[http://www.law.berkeley.edu/files/Secure\\_Communities\\_by\\_the\\_Numbers.pdf](http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf)

<sup>29</sup> The memorandum title is: "Priorities for the Apprehension, Detention, and Removal of Aliens"

<sup>30</sup> Secure Communities Memorandum of Agreement  
[http://www.ice.gov/doclib/foia/secure\\_communities/securecommunitiesmoatemplate.pdf](http://www.ice.gov/doclib/foia/secure_communities/securecommunitiesmoatemplate.pdf)

<sup>31</sup> Secure Communities Standard Operating Procedure  
[http://epic.org/privacy/secure\\_communities/securecommunitiesops93009.pdf](http://epic.org/privacy/secure_communities/securecommunitiesops93009.pdf)

<sup>32</sup> Immigration and Customs Enforcement. "Secure Communities Memorandum of Agreement." Department of Homeland Security.

<sup>33</sup> Morton, John. "Memorandum Subject: Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens." Immigration and Customs Enforcement. June 29, 2010

<sup>34</sup> In our data analysis, we specifically examined jail cards and ICE detainers.

<sup>35</sup> Morton, John. "Memorandum Subject: Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens." Immigration and Customs Enforcement. June 29, 2010

<sup>36</sup> Immigration and Customs Enforcement. "Secure Communities Standard Operating Procedures."

<sup>37</sup> See 8 U.S.C. 1101(a)(43). The specific list of INA Aggravated Felonies is available at [http://www.justice.gov/eoir/vll/benchbook/resources/Aggravated\\_Felony\\_Outline.pdf](http://www.justice.gov/eoir/vll/benchbook/resources/Aggravated_Felony_Outline.pdf)

<sup>38</sup> Morton, John. "Memorandum Subject: Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens." Immigration and Customs Enforcement. June 29, 2010

<sup>39</sup> Interview with Carlos J. Martinez, Miami-Dade County Public Defender, March 26, 2012.

<sup>40</sup> Immigration Policy Center. "Aggravated Felonies: An Overview." March 2012

<sup>41</sup> Morton, John. "Memorandum Subject: Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens." Immigration and Customs Enforcement. June 29, 2010

<sup>42</sup> See [http://www.justice.gov/eoir/vll/benchbook/resources/Aggravated\\_Felony\\_Outline.pdf](http://www.justice.gov/eoir/vll/benchbook/resources/Aggravated_Felony_Outline.pdf).

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<sup>43</sup> Waslin, Michele. "The Secure Communities Program: Unanswered Questions and Continuing Concerns," Immigration Policy Center. Updated November 2010  
<http://immigrationpolicy.org/special-reports/secure-communities-program-unanswered-questions-and-continuing-concerns>

<sup>44</sup> Particularly: Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens (2010); Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens (2011); Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs (2011); Civil Immigration Enforcement: Guidance on the Use of Detainers in the Federal, State, Local, and Tribal Criminal Justice Systems (2012)

<sup>45</sup> Office of the Director. "ICE Response to the Task Force on Secure Communities Findings and Recommendations," Immigration and Customs Enforcement. April 27, 2012

<sup>46</sup> Id.

<sup>47</sup> National Day Laborer Organizing Network, et al. "Briefing Guide to ICE's Minor "Secure Communities" Modifications," June 21, 2011.

<sup>48</sup> Aguila-socho, Edgar, David Rodwiwin, and Sameer Ashar. "Misplaced Priorities: The Failure of Secure Communities in Los Angeles," Immigrant Rights Clinic, University of California, Irvine School of Law. January 2012

<sup>49</sup> Morton, John. Civil Immigration Enforcement: Guidance on the Use of Detainers in the Federal, State, Local, and Tribal Criminal Justice Systems. Immigration and Customs Enforcement, December 21, 2012

<sup>50</sup> Asian Law Caucus, "Analysis of ICE Detainer Guidance," 2012. Ben Winograd, "New ICE Detainer Guidance Too Little, Too Late," Immigration Impact, American Immigration Council. January 3, 2013

<sup>51</sup> As outlined in the ICE memorandum Guidance on the Use of Detainers: misdemeanor convictions or pending charges justify issuance of a detainer if the offense involves: violence, threats or assaults; sexual abuse or exploitation; DUI; fleeing the scene of an accident; unlawful possession of a firearm or deadly weapon; distribution or trafficking of a controlled substance; other significant threat to public safety.

<sup>52</sup> Examples of criticism can be found in the following three sources. The article by Abbey-Lambertz quotes ICE's Michigan representative claiming "94% of Secure Communities removals fall within ICE's civil enforcement priorities, including recent entrants." This figure is commonly called upon as a response to the criticism of the Secure Communities program being a dragnet, but it highlights the exact nature of that criticism: Secure Communities priorities do not focus on criminals but a broad range of individuals made known through the program (i.e. a catch-all for immigration enforcement).

Waslin, Michele. "The Secure Communities Program: Unanswered Questions and Continuing Concerns," Immigration Policy Center. Updated November 2010  
<http://immigrationpolicy.org/special-reports/secure-communities-program-unanswered-questions-and-continuing-concerns>.

National Immigration Forum, "Immigrants Behind Bars: How, Why, and How Much?" March 2011.  
[http://immigrationforum.org/images/uploads/2011/Immigrants\\_in\\_Local\\_Jails.pdf](http://immigrationforum.org/images/uploads/2011/Immigrants_in_Local_Jails.pdf).

Editorial. "The Widening Dragnet," New York Times. August 14, 2011.  
[http://www.nytimes.com/2011/08/15/opinion/the-widening-dragnet.html?\\_r=0](http://www.nytimes.com/2011/08/15/opinion/the-widening-dragnet.html?_r=0).

Abbey-Lambertz, Kate. "Secure Communities, Immigration Enforcement Initiative, Criticized by Michigan Reformers," Huffington Post. March 22, 2012  
[http://www.huffingtonpost.com/2012/03/22/secure-communities-program-michigan-ice-undocumented-immigrants\\_n\\_1371394.html](http://www.huffingtonpost.com/2012/03/22/secure-communities-program-michigan-ice-undocumented-immigrants_n_1371394.html)